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THE  
C A S E

OF

*Protestant Dissenters*

IN

C A R O L I N A,

S H E W I N G

How a LAW to prevent OCCASIONAL  
CONFORMITY There, has ended in the Total  
Subversion of the Constitution in CHURCH and  
STATE.

Recommended to the serious Consideration of all that are true  
Friends to our present Establishment.

*By John Archdale*

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*Mutato nomine, de te  
Fabula narratur.*

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L O N D O N,

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## The Case of Protestant Dissenters in Carolina.

**L**iberty being the only sure and lasting Foundation of our Quiet and Satisfaction in this World, a Community can never be reduc'd to any State, in which it will not have a right to use all Methods, absolutely necessary to secure that Liberty when it is in danger, or to regain it when it is lost: Nor can there be any Condition of any single Person in that Community imagin'd or devis'd, in which it will not be his truer Interest to give his Assistance to secure or recover the Liberty of that Community, than to endanger or destroy it, tho he were by that means to get all the Power of the Community into his own Hands. For how much soever he might think it for his Interest to inflave others; yet it may be thought as much for the Interest of others to inflave him. And the surest way to secure himself against coming into so base and miserable a Condition, is no longer to insist upon governing his Actions towards others, by his own licentious and uncertain Humor, lest another should pretend to act as arbitrarily and uncertainly towards him: But to submit, that his own Actions as well as the Actions of all others should be bound by a stated and certain Rule; which when he transgresses, will bring him under greater Inconveniences than can be compensated by the Advantages, which may accrue to him by the Transgression. And this very Restraint that Men put themselves under, securing to 'em as far as may be at the same time, the Freedom of acting according to a known and stated Rule, is what we call Liberty: And being the Foundation of all their other Privileges, is what it must necessarily be their common Interest to preserve.

And as Liberty is the only Foundation of our Quiet and Satisfaction in this World; so *Liberty of Conscience* is the only Security that any Government can give us for our safe Passage thro this World to another. And Liberty of Conscience being a Liberty for every Man to believe what appears to him to be true, and to act pursuant to his Belief in matters relating to another Life, that don't disturb the Peace; 'tis no wonder, if Men are generally so fond of this Branch of Liberty, than they are of any other.

Interests of another World are infinitely more our Concern to secure, than the Ease and Satisfaction of the present; and that even our Civil Liberty it self becomes precarious and defeasible, where the Liberty of Mens Consciences has not the strongest Securitys that may be. For People can never be sure that a Government will not force 'em to act according to its uncertain and arbitrary Determinations, in matters that relate to the Peace of the Community, instead of allowing them the Freedom to act according to a stated and certain Rule, which will not allow 'em the Liberty to act according to their own Opinion, in matters which relate not at all to the Community: Nay in matters, which as they can do no body good or hurt besides themselves; so in matters which can do them no good or hurt, but in relation to another World: And whether they will do them any good or hurt in that respect, can't be known to the Government neither.

And those will be apt to think themselves less secure of Civil Liberty, after once their Religious Libertys have been violated, who consider, that Governments being erected for the Good of the Community, may have a right in some extraordinary Cases to break in upon the known and stated Rules of acting, in order to a Publick Good; which the Politicians have call'd *Jus Dominationis*. But that they can never have a right to hinder the Liberty that all Men have to think, and act in matters of Faith and Worship, as shall seem to them most reasonable and convenient; because the Good of the Society can never require it, unless it can require a Government to tempt Men to turn Knaves and Villains, for Knavery and Villany sake: For that is all that Persecution and Violence offer'd to Mens Consciences can be design'd to do. So that in a word, if any Government breaks in upon the Liberty of Conscience, it breaks in upon an indefeasible Right of the People, and commits a Violation, which must necessarily turn to the Prejudice of the Community; and may therefore much more easily break in upon Civil Liberty, which tho very sacred, must be allow'd to be defeasible, and lawfully to be broken in upon in such Cases, where the Good of the Community absolutely requires it. And when a Government has once broken in upon the Liberty of any one Man's Conscience, or upon the Consciences of any Body of Men, Civil Liberty is not only thereby endanger'd, but no other Body of Men can promise themselves any *lasting Security* for the Liberty of their Consciences. For tho some religious Bodys of Men may have better Securitys than others, yet there can be no Security to any, that can outlive the Change of Opinion in the Government, but that Government is oblig'd to give us *full and Absolute Toleration*: Which indeed can hardly be granted, because it will never be the Interest of the Government, however the Government may happen to change



change their Opinion in Religion ; and because 'twill always be the Interest of every Man that is subject to that Government, to take all proper Methods to preserve it. We have seen all the Laws, made in our own Country for the Security of the Church of *England*, repeal'd and trampled on by a Government of a different Persuasion : Whereas had an Universal and Absolute Toleration been establish'd, the Church had escap'd a Persecution that ensu'd. So that upon the whole, Oppression and Persecution are not only against *Natural Equity*, and the *Doctrine and Example* of the Author of the *Christian Religion* : Nor is Persecution in particular only altogether inconsistent with the *first Principles of the Reformation* ; but both Persecution and Oppression are against the *true Interest of all Communitys*, and of every Man, and of every Set of Men in 'em.

And that Oppression and Persecution are generally thought to be so, appears from hence ; that in the great Contest that is on foot at present both Abroad and at Home, the several contending Powers and Partys either really aim at the restoring and securing Liberty, or at least pretend to do so ; as well knowing, that no Number of Men cou'd be brought to interest themselves in their Quarrel on any other score. Thus whilst the Confederates are endeavouring to secure the Libertys of *Europe*, by dispossessing the House of *Bourbon* of the Throne of *Spain* ; and to restore the Rights of *Spain*, by placing a Prince of the House of *Austria* in it ; the King of *France* pretends to have only pursu'd a Will made in the favour of his Grandson in seizing on that Monarchy, and to have prevented the Injury that wou'd have accru'd to the *Spaniards* by dismembring it. And whilst some of the Northern Powers don't think the Reform'd Religion secure, till the exorbitant Power of the House of *Bourbon* is reduc'd ; The Roman Catholicks industriously give it out every where, that the Success of the House of *Austria* portends Ruin to their Church ; because that House is in so strict a League with Hereticks : And endeavour to frighten the poor bigotted People with the Stakes and Gibbets, the Plots and Conspiracys, the Croisadoes and Inquisitions, and all those other Tragical Engines of Blood and Violence, which they have never suffer'd Hereticks to be unacquainted with, whenever their Power has been equal to their implacable Malice and ill Will. And thus at Home, whilst the Low Church have protected the Dissenters from the Persecution of the High Church, in order to maintain their own Liberty as well as that of the Dissenters ; and have been enabled since by the Assistance of the Dissenters to ward off a Persecution against themselves, which it had been afterwards in the power of the High Church to commenc'd against them, when they had so pleas'd ; the H

have endeavour'd to suggest and insinuate in all Parts of the Kingdom, that the Church is in Danger, and that they shan't have the Liberty of being High Churchmen any longer, from too strict a Correspondence, that they observe, it seems, between the Low Church and Dissenters.

And no wonder there is such a struggle for Liberty in reality or pretence in all Parts of *Christendom*, since every Man that is sensible of the inestimable value of Liberty, is at the same time sensible, that it can receive no hurt in any Part of *Europe*, without endangering it in all others. For Persecution and Slavery, like a Fire, waste and destroy as long as there is any thing left for them to prey upon. Nor is there any Security against them, but the checking them at their first Appearing; since if they be suffer'd to spread, no body can say where they will stop. Nor does any body in the Case of Fire (nor shou'd they in the other Cases) trust to his distance from it, at its first Beginning; but instead of pleasing himself with the deluding Hopes that it will go out of itself, places all his Confidence and Security in this, that every one takes it for a common Enemy, and thinks himself oblig'd, for his own sake, to lend the best Assistance he can to quench it. I hope therefore no body, who has these Apprehensions of the Value and *tender Nature of Liberty*, will be angry with me, that I am giving the best Assistance I can, to extinguish a Flame, that is broke out in one of the remotest Parts of her Majesty's Dominions. For tho' it began here at Home, yet as it has been often observ'd to happen in great Fires, it has catch'd in discontinuous Buildings, and has spread still further and further, till it has at last reach'd some of the most distant Parts of the World. An Attempt was but made to disable Protestant Dissenters from bearing any Office in *England*, and presently they were excluded from them in *Ireland*, and from Sitting in the Commons House of Assembly in *Carolina*. So that since it appears in fact, as well as in Reason, that no Part of the *English* Dominions is out of Danger, by its distance from the Place where this Fire first appear'd; nor secure, because it seem'd but a small one just kindled: I promise my self that it will be taken kindly that I give my helping Hand to the putting it out in any Place where it yet remains. And that it will not be ill taken, if the Water, and Buckets, and other Engines be not in my Custody; nor those that are to manage 'em under my Direction, and nothing more be in my Power; if I only give the Notice, and cry Fire, in order to bring others to my Aid, and to dispose those who have the particular Care of these Matters, to apply themselves, by all possible means, to stop its spreading any further.

But



But I know it will be justly expected that I shou'd satisfy every Body that I don't give a false Alarm. That I may not therefore be wanting in this Point, I will here transcribe some part of an Act made in the Assembly of Carolina in the year 1704. intitl'd, *An Act for the more effectual Preservation of the Government of this Province, &c.* referring the Reader to the Act it self hereunto annex'd, No 6. for his further Satisfaction. Part of that Act runs thus: *Be it therefore enacted by and with the Authority, &c. That every Person after the Ratification of this Act, that shall be chosen a Member of the Commons House of Assembly, that hath not, within the space of 12 months before such his Election, receiv'd the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, as establish'd by Law; such Person after his Election, and before he be permitted to sit and vote in the said House, shall receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, in some publick Church, upon some Lord's Day, commonly call'd Sunday, immediately after Divine Service and Sermon; and every of the said Persons, in open Assembly, in a full House duly sitting, with their Speaker in his Chair, shall deliver a Certificate of such his receiving the said Sacrament, as aforesaid, under the Hand of the respective Minister, or shall make Proof of the Truth thereof by two credible Witnesses at the least upon Oath.* - By which it plainly appears, that Protestant Dissenters are by this Act rendred incapable of sitting in the Commons House of Assembly; and consequently, that they are depriv'd of a Capacity which the Law had given them, and which therefore was as much theirs, as any other thing they laid claim to: Since 'tis the Law alone in Civil Governments that makes this thing Mine, and that thing another Man's. Nor is it of an insignificant thing that they are depriv'd by this Law neither: For as Legal Capacities in every Country are the Foundations of all the Happiness a Man can have in that Country; so the Capacity this Act deprives them of, is one of the highest a Man can have in that Country, either in respect of Usefulness or Honour: And a Capacity, to which they had as good a Title, as to a Capacity of holding or devising an Estate, by Grant, Sale, Deed of Gift or Testament, or of contracting any Relation in Life, or of holding or executing any Place or Office, or of having any Title, or Mark of Distinction and Honour.

And as the Capacity to sit in the Commons House of Assembly is not only a Capacity of the greatest Power, but of the greatest Distinction and Honour; so the taking it away is a Note of great Infamy and Disgrace, for it's singling 'em out as Knaves and Rascals, who are not fit to be intrusted with the Liberties of the People in the same

same degree that other Men are; and 'tis but giving them an ill Name, and the Mob will not fail to treat them accordingly. I mention the rather, because I find by a *Representation of several Grievances in Carolina, sign'd by several of the Members of the Commons House of Assembly, and other principal Inhabitants, to the Lords Proprietors, dated the 26th of June, 1703.* that those who had then (and who have still) the chief Power of that Province in their Hands, are very well acquainted with such tumultuous Manners of Proceedings, as may be more particularly seen in the 10th, 11th, 12th, 13th, 14th, 15th and 16th Articles of the said Representation, a Copy whereof is hereunto annex'd. By which Articles it plainly appears, that after the prevailing Party in the Assembly had abus'd and revild some worthy Members of that Assembly, and treated them with the most reflecting Language imaginable, only for insisting upon some things that were absolutely necessary for the preserving the Dignity of that House, and the Freedom of their Elections; the Mob was rais'd upon 'em, and encourag'd to insult 'em for four or five days in a very riotous manner, to their great Damage, and the manifest Danger of their Lives. During which time, the Government was so far from quelling the Riot, or punishing the Rioters; that as all Methods were taken to raise, countenance and encourage it whilst it lasted; so, like Methods have been us'd to skreen the Rioters and their Abettors from Justice ever since. In order whereto the principal Promoters of this Riot have been put into the chief Places of the Law. And I suppose nobody will find it difficult to beleive, that these riotous, tumultuous and insolent Proceedings have been very grievous and frequent since the passing this Act as well as before. And as these Insolences must be born patiently by the Protestant Dissenters, and without any hopes of Redress, if they continue there; so they can't quit the Place, if these Insolences become insupportable, without sustaining great *Damage* in their Estates, and exposing themselves to manifest *Dangers* and Inconveniences in transporting their Familys and Effects. So that upon the whole; this Act will appear not only to deprive the Protestant Dissenters of something that was theirs, but to deprive 'em of a *Capacity of Honour* as well as *Power*, and to brand 'em with a Mark of great *Infamy* and *Reproach*; and at the same time either to expose 'em to the *Insolences* that usually accompany such a Character, if they shou'd have Hardiness enough to stay in the Province, or, which is worse, to the great *Damage* and *Danger* of their *Estates* and *Familys* if they can't.

Now the making Men uneasy for the sake of any Opinion that they hold in Matters of Religion, which does not disturb the Publick Peace,

Ac 5.

See Art.  
16.



Peace, is *Persecution*: Whether they are made uneasy by inflicting any Corporal or Pecuniary Punishment, or by depriving them of any Privilege; and whether that Privilege be Power, Honour, or Reputation, it makes no difference. For still every thing that makes a Man uneasy is Punishment; and the inflicting that Punishment for Conscience-sake, makes it Persecution. And what can it be then but a severe Persecution, to rob Men of a Capacity for the sake of their Conscience, by which they can be of the most publick Use and Service? Usefulness being the greatest Pleasure, and justly deem'd by all good Men the truest and noblest End of Life; in which Men come nearest to the Character of our B. Saviour, who went about doing good; and even to that of our great Creator, whose Goodness is over all his Works. And since Marks of Honour and high Trusts are Rewards of Merit and Greatness, What can the taking away the very Capacity of 'em be, but Punishments? And what can Punishments be but Persecution, if inflicted for Conscience-sake? And if the bare taking away a Mark of Honour, and advantageous Distinction for Conscience-sake, must be deem'd a Persecution, 'tis certain, that it must be as great an Aggravation and Enhancement of that Persecution, to brand Men with a Mark of Distinction to their disadvantage, and expose them as Men not fit to be trusted in publick Concerns; as if every Dissenter there was to stand upon a Stage, or in their Courts of Justice, with a Paper upon his Breast, notifying him to be a Protestant Dissenter, and therefore to be shunned and avoided as a Betrayer of the highest Trusts of the Province. The Insolences which may follow such a Character as this, may oblige the Dissenters to quit the Province, to the very great Loss and Damage of their Estates: And in that Case, this Exclusion will amount, not only to a heavy Fine, but to Banishment it self; and perhaps to Mutilation, and loss of Life or Limb, before they get out of the Country.

This is the Persecution this Act exposes Protestant Dissenters to at present. But what Persecution can they *be secure against for the future*, upon the Principles on which this Act is founded? Nay, what persecuting Bills mayn't they, who are thought to have justly deserv'd this Treatment, apprehend from a Commons House of Assembly, compos'd of almost none but such as thought they deserv'd it? For if the Commons House of Assembly have a Right to bring in a Bill, to deprive Protestant Dissenters of the Capacity of sitting in that House; mayn't they bring others to deprive 'em of any other Capacity of Honour that they now hold? And if they can bring in a Bill to punish 'em with this Mark of Disgrace, can't they bring in a Bill or Bills to punish 'em with any greater? If they can call 'em

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Rogues and Rascals by Implication, can't they call 'em so in terms at length when they please? And mayn't they then treat them as such; and bring in a Bill to Pillory or Cart 'em, or burn 'em in the Cheek; or put any the most publick Badge of Infamy upon 'em that they think fit? For when they once come to be thought Rogues and Rascals, Disturbers of the Publick Peace; it's then intirely in the Breast of the House to bring in a Bill or Bills, in order to inflict such further Punishments, and to take such other Precautions against them as the Exigency of the Case, that is, according as the Security of the Publick shall require.

Nay, and will not the Publick Security require that more should be done? For if Protestant Dissenters in Carolina are not fit to remain capable of the Legislative Power, it can't be thought safe to let them remain capable of any part of the Executive Power. And when they are not capable of Representing, it can never be thought safe to let 'em remain capable of being Represented. For if they should be intrusted with the Power of Electing, they may elect Men, that may restore them to all the Capacities, of which for the Publick Safety they have been depriv'd: And if they should not be capable of Electing, it can't be thought prudent to let 'em enjoy the Property which entitles others to that Right. For Power will follow Property, and if they are suffer'd to hold their Property, they may regain their Power: And when their Lands shall be confiscated, 'twill not be safe to suffer a parcel of exasperated and desperate Men to remain in the Country; and so they must either banish 'em, or send 'em to the Gallows: Or if common Compassion and Humanity should so far prevail against consistency with these Principles, as to let this present Set of Dissenters live out the time that Nature has allotted 'em, they must necessarily forbid 'em to Marry, or oblige 'em to Castration; that a Race of such Monsters may no longer be continued to the danger and disturbance of the Publick Peace. And if Protestant Dissenters may be exposed, made incapable of all Offices, of Electing, or being Elected to the Commons House of Assembly; if they may be confiscated and proscribed, and that the first of these Steps, after it is once taken, does naturally, and in good Policy ought to lead Men on to all the others; the Dissenters have but a slender Security, that such Measures shall not be taken from the Temper of those Men, who by virtue of this Act must compose the Commons House of Assembly. And this Bill having past the Deputies of the Proprietors, who (as things stand now in Carolina) compose the Upper House, and the Proprietors themselves having Ratify'd it; the Protestant Dissenters can have no Security, that they will not pass and ratify  
any



any of the other, when they shall come to be offer'd to 'em. And let no body think these Inferences to be Visionary and Chimerical, and the mere Guesſes and Conjectures of a Splenetick Man: Let them that think ſo, ſhew me a Country where Perſecutors have ever ſtopt of themſelves, after they have once got Power into their hands; and being contented with their firſt Beginnings, have made no further progreſs: Or that they have not proceeded from one degree of Violence to another, till they arriv'd at long run at the laſt; if they have not been prevented by ſome publick Calamity, Diſtreſs or Exigency, that has made them think it unſafe for themſelves to carry their Violences to that degree. So that it has been a common Obſervation, that Perſecution never ſtops till it comes to Fire and Faggot, and only ſtops there becauſe it can go no further.

Upon which account, as well as many others, it is an Oppreſſion in it ſelf ſo odious, and ſo generally thought to be ſo; that after that is fully prov'd upon any Law, there needs nothing more to be ſaid againſt it: For that it ſelf is ſaying, That it is againſt *Natural Equity*, the *Chriſtian Religion*, the *firſt Principles of the Reformation*, and the *true Intereſt* of every Community. I ſhan't therefore go about to prove this Law to deſerve theſe general Characters, but only give thoſe ill Characters of this Law, which are peculiar to it ſelf; and prove particularly, that it is a great Inſtance of Ingratitude to the Proteſtant Diſſenters, that it is Ruinous and Deſtructive to the Province, and a Breach of the Original Contract between the Proprietors and the People that inhabit it.

'Tis in the firſt place a moſt *unjuſt Return* to the Diſſenters, for their quiet, impartial and obliging Behaviour to their Neighbours, and for their kind and reſpectful Deportment to the Church of *England*. So far were they from undermining the Church, or attempting any thing againſt it, that they contributed voluntarily to the Maintenance of the Church of *England* Miniſter in *Charles-Town*, the Capital of this Province, the only Church of *England* Miniſter that there was at that time in the Province, before there was any publick Maintenance ſettled on him. And about the Year 1698. Mr. *Blake* a Diſſenting Governour, thinking the Maintenance of the Miniſter too precarious, procur'd an Act of Aſſembly (in which there were a great number of Diſſenters) for the ſettling a very convenient Houſe, with a Glebe, two Servants, and 150 *l. per Ann.* upon the Miniſter of that Church for ever. And after the ſaid Act had paſſ'd through

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the two Houses by his Influence, he gave the Assent to it; The Governor in *Carolina* having a Negative upon all Bills, after they have pass thro both Houses. And as he made several considerable Presents to him; so his Lady, tho a Dissenter as well as he, gave some things for adorning the Pulpit. This was the worst Effect that the Church ever felt, of the Dissenters Power in *Carolina*. So far were they from repealing any Laws in favour of the Church, when they had the Power in their Hands; that they made these *Contributions*, and settl'd this *Endowment* upon the Church of *Charles Town* by Law, tho they were under no Obligations to do so; but such as arose from the deference they had to the Government of *England*, and a grateful Sense both of the Liberty it had granted to 'em, and of a Generosity somewhat akin to this, which the Churchmen had shewn in their Regard. And as they were under no other Obligations, so they had no apparent Interest that could induce them to the one or the other, besides that which should induce Men to all handsom and generous Actions. It might perhaps indeed be imagin'd at this distance, that this was done to court Popularity with the Churchmen, in order to get themselves elected for the future. But no Body can imagine this but a perfect Stranger to the Province, for 'tis notorious that above two Thirds of the People of *Carolina* are Dissenters. So that nothing seems to have engag'd them to this Christian Behaviour, but a truly Christian Spirit; which appears from the liberal Maintenance that they settl'd upon the Minister, as well as from the Principles, which in all probability engag'd them to settle it. These are the generous Dispositions, which an Universal and Absolute Toleration permitted Humanity and the Christian Religion to inspire Men withal in *Carolina*: And which it would by a Parity of Reason produce every where else. For by this Instance it is plain that it is not the Differences in Opinion between the Church and Dissenters, that alienate the Minds of the one from the other; and 'tis as plain that it is only the Injuries done to the Dissenters upon account of these Differences, that do. But when Men once feel any Power oppressive and injurious, 'tis no Wonder if they then endeavour to lessen it.

But so far has the want of Provocations been able to work these Dispositions in another set of Men in *Carolina*, who would fain be thought the only Churchmen there, that even these singular and unconstrain'd Kindnesses and Benefactions of the Dissenters to the Churchmen have not been able to do it; but have only tended to give them the *Hardiness*, as the impartial Behaviour of the Dissenters has, to the continuing to them the *Power to make this disqualifying Law*. A Law which hereby manifestly appears to be a returning of Evil for Good,



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Good, instead of what good Laws, as well as good Actions, should be a returning of Good for Evil. What can such Ingratitude as this do, but make those that are guilty of it appear to be void of all Principles of Humanity and the Christian Religion, and render them odious both to God and Man? And if the Men that have made this Act should pass for good Churchmen, and be thought and said to have done it for the Service of the Church, and should be supported and countenanc'd in it, by Men that assume and appropriate that Character to themselves; what can all this tend to, but to render the Church as odious as they are? For a Church that teaches and abets Ingratitude, may pass for any Church rather than a Christian one. And since nothing is more apt to provoke Men than Injuries, heighten'd by Ingratitude, what can in any likelihood keep Protestant Dissenters easy there, unless they shou'd take themselves to be the Tribe, which, according to the Patriarch's Prediction, was to be a strong Ass, couching under his Burden; and so shou'd think themselves oblig'd not to endeavour to sling off their Burden, in order to fulfil the Prophecy?

And indeed *Carolina* is not the only Part of her Majesty's Dominions, where the Protestant Dissenters have seem'd to act upon this Persuasion, and to have born the weight of the Protestant Religion, without sharing the better part of its peculiar Advantages. They have been forc'd both in *England* and *Ireland* to yield themselves a perpetual Sacrifice to their Persecutors, rather than to take Liberty in common with the Papists, to the Ruin of the Protestant Religion, and our Civil Libertys. They have expos'd themselves as far, to procure Exclusions, Revolutions, and such like Securitys for our Religion and Libertys, as any other Set of Men whatsoever: But when any such Securitys have been obtain'd, they still, like the Ass, have born the Burden of the Taxes, of Loans, and any thing else, for the Support of the Government; tho they have been so far from usually having had any of the fine Trappings, that other Animals; which are often more for Show than Service, have been adorn'd with; that they have not yet obtain'd any Security in *Ireland* against the heavy Load of former Persecutions, and have obtain'd no such Security in *England*, as can prevent their Enemy's riding them in several Parts of the Kingdom. And this I say, that the Protestant Dissenters in *Carolina* may have this Consolation, such as it is, till they can obtain a better, That they are not the only Protestant Dissenters, who don't meet with their Rewards in this World, and are to wait for them with Patience in another.

And indeed the Christian Religion will oblige them to wait with Patience: But yet the Ingratitude of those in *Carolina*, that make it  
necessary

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necessary for them to do so, can never be thought any thing by considering Men, but the height of Imprudence and Folly. For it is doing all they can to make their Friends and Benefactors turn their greatest Enemys, and to make them more their Enemys, who are so at present. And this particular Ingratitude of a Set of Men in *Carolina*, who arrogate to themselves the name of Churchmen, is the greatest Provocation that can be given to the Dissenters, to *repent* of the kind and handsom Usage they have always given them there; and to teach the Dissenters, whenever they have it in their Power again, to *use* them hardly, and *keep them under*; since they are not to be won by such Instances of unexample'd Kindness and Generosity. The unforeseen Changes and Alterations to which all Governments are subject, ought to teach all Partys Moderation, and especially those who are in Power; but the Government of *Carolina* altering necessarily with its Proprietors, and its Proprietorships shifting daily from one Owner to another, and being thereby liable to more frequent and sudden Alterations than almost any free Government in the World besides, makes Heat and Violence in any Set of Men in Power there, a greater Presumption and Madness than in any other: For it is giving an ill Precedent, that every one easily foresees, by selling a Proprietorship to day, may turn against themselves to morrow. And that which makes Violence in these Men yet the more frantick and unaccountable, is, that perhaps the very Title of the Proprietors, and consequently all the Title which this Set of Men have to Power (they deriving all their Power from these Proprietors) may appear to have a great many more Flaws than one, when it comes to be look'd into. And such Violence and Ingratitude as this, may put Persons upon such an Examination of their Title for the good of the Publick, as perhaps they wou'd not have undertaken barely for their own private Advantage.

But tho all Ingratitude be Folly and against our true Interest, yet the Folly of all those, whether Proprietors or Inhabitants of *Carolina*, who have had any hand in passing this Law; and the Manner in which they have acted inconsistently with their own *true Interest* and Advantage, is abundantly more obvious and complicated, than an Act of mere Ingratitude can be. 'Tis a known Maxim, that all Infringements upon Liberty, and particularly upon Liberty of Conscience, the most valuable, and perhaps the only indefeasible Branch of Liberty, tend to *slacken Industry*, to *hinder Propagation* and Increase, to *prevent Men from coming to settle* in those parts of the World



World which are the most inviting, and to *drive* those who are already fix'd and settled there, to seek new Habitations in the very Sinks of the Universe, where they may but enjoy this desir'd Liberty. We have a clear and undeniable Instance of this in *Greece*, where there are not now, under the absolute Government of the Great Turk, according to a modest Computation, the one hundredth part of the Inhabitants, that there were when they were free Governments: And by this means that Country is perfectly over-run with Briars and Thorns; and an inexpressible face of Barrenness, Poverty and Want, covers all that Territory, which was once justly renown'd for the greatest Fruitfulness, Trade and Riches of the World. And the Misery which the *late* Persecution has produc'd in the Country, and in the Towns and Villages of *France*, in so short a Time, is a very convincing Proof, that all Violations of Liberty of Conscience will produce the same fatal Effects, as violating the Civil Rights of Mankind. And on the contrary, *Holland*, a perfect Bog, fit for nothing but what it was, the Habitation of a few poor Fishermen, is, by the great regard it has to the maintaining Liberty, and particularly Liberty of Conscience, become the very Garden of this part of the World.

But that we may not talk of Places at a distance only, Have not the Persecutions that have been set on foot here at *home*, by Protestants against Protestants, ever since the Reformation, driven an infinite number of People from our happy Climate, from their Habitations, Friends, Relations, and Christian Acquaintance, to run the hazards of transporting themselves, with their Families and Effects, to very remote Parts of the World, either wholly uncultivated and uninhabited, or where there were none but a wild ignorant and savage People, who had nothing but this to recommend them, that they were by far preferable to their Oppressors?

If then Persecution can drive Men from the best Countrys, and depopulate the most healthful Climates, the most fertile Soils, and the most cultivated Regions; will it not easily depopulate a *Country which has not these Advantages*? The very Reasons which drove Men from hence to *Carolina*, or which tempted them to stay there, are now *ceased*, and *drive* Men from thence into other parts of the World. Liberty of Conscience, the Pearl of great Price, that the Dissenting Inhabitants have sold all they had to purchase, they are now depriv'd of; and the very Property, that possibly others of baser Minds might go to seek, they have now no great reason to think themselves secure of neither: Nay, the very Reproach which they perhaps avoided here, when they forsook  
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their native Country, has overtaken them there, where they are now counted as the Off-scouring of all things. Whilst, God be prais'd, the Liberty that had left our happy Island, and was banish'd to these remote Parts of the English Dominions, has visited it again; and seems now likely to continue and fix amongst us. So that the Birth and Destruction of this Province, will in all probability be owing to the same Cause: For there are now great Numbers of the principal Inhabitants, who have resolv'd to transplant themselves into other Parts, as soon as they shall see that there is no Redress against this Act to be obtain'd.

But perhaps the People of *Carolina* are in the Case of the Antient *Goths* and *Vandals*, or at least of the present *Swiss*, and have more Inhabitants than that barren Country can maintain: And that therefore they were oblig'd to make this Law to *thin it*, and drive some of them away. This wou'd be thought a severe Sarcasm if it were said in *Carolina*, or to any that knows that Province; there being not above a Thousand Souls to inhabit a most fruitful Country of Three hundred Miles in length, and no Man can tell how many in breadth. King *Charles* the Second having granted the Proprietors all the Land Westward in a direct Line, between 31 and 36 degrees of Northern Latitude to the South Seas. Therefore this is said only to give those a true Notion of this Law, who are perfect Strangers to the Place.

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But then possibly it will be imagin'd, that this Act affects but a few of the Inhabitants of this Province, and those the Mean, the Lazy, and the Vicious; and that therefore it is but sacrificing a *small Number of unworthy Men* to the Peace and Quiet of a Country: Or that it is but letting out a little ill Blood, which is readily to be parted with for the Health and Vigor of the Body Politick, tho perhaps it may not abound with too great Quantity of that which is of a just Temperament. Something like this at least was pretended and alledged against the Dissenters in *England*, when Persecution drove them from hence to those parts of the World: But this is so far from being the true Reason of passing this Act, that the Facts themselves are notoriously false; as indeed they were in respect of those whom the Penal Laws drove from hence. But yet with this difference, that this Pretext, according to the Prejudices that were generally entertain'd against the Dissenters here, carried some Face and Plausibility along with it; whilst there is not the least colour for these Allegations there: The Protestant Dissenters being above two Thirds of the Inhabitants of *Carolina*, as well as the most sober, orderly, and the richest, that is, the most Landed and Trading Men in



the Province. Such a Character as this of the Dissenters of that Province, I am afraid won't be taken upon Trust, from the bare Assertion of a Man that writes in their defence, and that in an Age when no Accounts of Writers are much farther allow'd than they produce Vouchers for; but especially when they are in favour of Dissenters, where the least Article is hardly to be taken upon the best Credit. But I hope the Account which the Minister of the Church of *England* in *Charles-Town*, formerly a Non-Juror, that has resided there for several Years, gives of them, may be allow'd to be a good Authority. He has this remarkable Passage, in a Letter which he writes to a Reverend Dean of the Church of *England*, Dr. *St-nb-p*, a Copy whereof is hereunto annex'd; “ *And I a little favouring the* N<sup>o</sup>. 12.  
“ *Dissenters, who generally are the soberest, most numerous and richest*  
“ *People of this Province; Some Men that are now in Power have for that*  
“ *reason been my Enemies.*

And for whose sake, I pray, must two Thirds of such Inhabitants be driven away? Why truly if you will believe the same Authority, which I think in this Case no body will dispute, 'tis for the sake of a Set of the most *irreligious, flagitious, tyrannical Men* in the whole Province; who appropriate to themselves the Name of *Church-men*, tho they seldom or never go to Church themselves, have never receiv'd the Sacrament these five Years; and have little other Pretensions to this Title, than their unwearied Endeavours to prevent their scrupulous and conscientious Neighbours from going to worship God any where else. His Words are these in the same Letter, *Our last Assembly being composed of many Men of very loose and corrupt Morals, &c.* And in his Petition to the Palatine and Proprietors of *Carolina* hereunto annex'd, he tells them, *That he is sorry to inform their Lordships, that most of* N<sup>o</sup>. 13.  
*the late Members of Assembly, have been constant Absenters from the Holy Sacrament of the Lord's Supper; tho for these five Years past he has administered it in his Church at least six times a Year: So that it is no wonder they have inserted an absurd Oath in a late Act, to be taken by Members of the Commons House of Assembly, instead of conforming to the Church of England, by receiving the Sacrament of the Lord's Supper, according to the Rites of the said Church.* And in another part of his Petition he says, *That many of the Members of the Commons House that past this disqualifying Law, are constant absenters from the Church; and Eleven of them were never known to receive the Sacrament of the Lord's Supper; and so perhaps their Religion may be to seek.* And the whole Petition sufficiently sets forth their tyrannical Proceedings, of which we shall give a farther and a more particular account. And in his Case hereunto annexed, he calls them a set of *illiterate and unreasonable* N<sup>o</sup>. 14.

*Men*: So that according to the Account of this Clergy-man, this Act will be so far from letting out the ill Blood of *Carolina*, that it will let out that good Blood, whose Office it is in the Opinion of some *Physicians* to be the *Frenum bilis*, and to leave nothing but ill Humours to over-run the Body without controul. 'Twill be to fling away the Salt of this Province, which is to be its Savor; and to give up every thing there to Tastelesness or Corruption.

But in order to give the true Character of this Set of Men, there is no necessity to quote any Works but their own. They have drawn their Picture to the Life in this *infamous Act*, and in several of their *Proceedings* that have pav'd the way to it. In which we may plainly discover Irreligion and Oppression to be the very Complexion and principal Lines of their Minds. But in order to let the World see what were the Viëws that induc'd this Faction to endeavour to obtain this Law, whose tendency to ruin the Province must have been so obvious to them, as to make them sensible that they themselves were at last to become Sharers in the Calamity; it is necessary to let the World know the State of *Carolina* at the time of their bringing in this Bill into the Assembly. And in order to give an Account of the State of this Province at that time, we must go as far back as the Year 1700. When upon the death of Governour *Blake*, Mr. *James Moore* procur'd himself to be elected Governour in his room, by divers indirect and illegal Practices. This Election is made by the Council, which is compos'd of the Proprietors Deputys: And they are the Heads of that Faction from which all the Miserys of this Province chiefly proceed. They appear'd extremely solicitous to put Power into this Man's hands, in hopes no doubt to have it given back into their own; that so they might thereby have an opportunity to repair their broken Fortunes at the Expence of the Publick. After they had by these Methods obtain'd a Governour, whose Debts and Necessities were like to put him upon any violent Measures, that could turn to the private Advantage of the Faction: He in the first place made all his Efforts to fill up a Council; and in the next place, which was in the Year 1701. to obtain such a *Commons House of Assembly*, as would be most subservient to his private Views: Both of which he obtain'd accordingly, and the last by the most illegal Elections and Returns; that perhaps a free Country ever heard of. And to prevent a Redress of these undue Elections, he arbitrarily prorogu'd the Assembly several times, when the Commons House were enquiring into the said Elections. And when the Assembly was to be suffer'd to meet, in order to quiet the Clamours that were amongst the People against such Arbitrary Proceedings, an  
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Ibid.

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Art. 2.

illegal, expensive, and hazardous Expedition, was propos'd against Fort St. Augustine; partly to enrich themselves out of the Money that *Art. 3.* should be allowed for that Expedition, and out of the Booty that should be taken; (tho, by Law, that ought to be divided amongst *Art. 6.* the Soldiers) and partly to prevent an Enquiry into these undue Elections. And that no body might attempt or move the same Enquiry again, nor oppose the said Expedition, the Assembly was deny'd the *Art. 10.* Liberty of Free Debate. When it was propos'd in the House to confirm the Fundamental Constitutions, which they knew would settle the Country, and prevent their Abuses; they *ridicul'd them as void* *Art. 8.* *and absurd* in themselves, and not fit to be declar'd the Rule of the Government: Tho it was by these very Constitutions, that they had the Power of a Commons House of Assembly. But it was necessary to keep the Province in this unsettled condition, on purpose that they might have the better Pretence to act or not to act, according to the said Constitutions, as it should best suit with their private Interest. And as the said Governour and Council had prevented any Parliamentary Enquiries into Irregularitys, that had been committed in past Elections and Returns to Parliament; so they *rejected a Bill* for regulating Elections, and preventing the like Abuses for the future (which pass'd twice through the Commons House) without so much as a Conference.

And to terrify those Members who still stood up in the Commons House, for the Dignity of that House, and the Libertys of the Province, a Riot was rais'd upon them by the Justices of the Peace, the Militia Officers, and other Agents of the Governor and Council, to their great Damage and Danger, in manifest Violation of the Liberty of the Subject, and of the Privileges of Parliament. And one of the Commons House of Assembly was violently drag'd on board a Ship, there unlawfully detain'd, and threatned to be hang'd or carry'd to *Jamaica*, or left on some remote and desolate Island. As this *Art. 10.* Riot was *rais'd, encourag'd and countenanc'd* by the said Governor and Council, and as no Assistance cou'd be obtain'd to quell it; so all Methods to enquire into and *punish* the same have been render'd ineffectual, and the Course of Justice entirely stopt. For Sir *Nathaniel Johnson* was made Governor in the room of the said Governor *Moore*; the said Governor *Moore* was presently made Attorney General, and Mr. *Trott*, another of the chief Abettors of the Riot, the Chief Justice of the Common Pleas, who in this Province is sole Judge. Sir *Nathaniel Johnson* was General of the *Leeward* Islands in the Reign of the late King *James*; but he quitted his Government upon the Revolution, and retir'd to *Carolina*, where he liv'd private.



ly till the Death of the late King *James*: Upon which he first took the Oaths to the Government, and some time after was made Governor of the Province. And he has since his being Governor appointed such Sheriffs as prevent all Prosecutions of this Riot at their Assizes or Quarter-Sessions (which are the only Courts of Justice in this Province where Crimes of this Nature can be try'd, and where the said Mr. *Trott* is sole Judge) by returning such Jurors as were known Abettors of the said Riot. So that there is a total failure of Justice, and nothing but Corruption in the whole Frame and Administration of Government.

These Conspirators however saw that a new Parliament might set all things to rights again. And therefore when the time of a new Election came, which, according to their Constitution, is once in two years, they resolv'd to procure a Commons House of Assembly of the same Complexion with the former, and by more illegal Practices, if those they had us'd in the former Elections wou'd not do their Business. Their Designs took effect, and such a Commons House of Assembly was return'd, as fully answer'd their Expectations. But because they saw that the illegal Methods they had taken at these two Elections, and that they shou'd be forc'd to take in future Elections, wou'd at length, when Men came to cool, set the Minds of all the People against them; and that then a Parliament wou'd in all probability be chosen that wou'd enquire into these Grievances, and take effectual care to bring the Authors of them to condign Punishment; therefore they now resolv'd to carry on their Violences *by Law*, and cover and sanctify them by that usual Pretext. Knowing therefore, that those who had been the most active in endeavouring to prevent the Ruin of the Constitution, were Dissenters; and that if they cou'd once exclude them the Commons House of Assembly, they shou'd never be in Danger of being call'd to account, for sacrificing thus the Constitution of the Province in all its Parts, to their own Avarice and Ambition; because there is not a sufficient number of moderate Churchmen in the Province, who are qualify'd by their Interest and Figure for being chosen into the Commons House to out-vote their Faction; they brought in this Bill to exclude Protestant Dissenters from ever sitting in it for the future. The Title of that Act is, *An Act for the more effectual Preservation of the Government of this Province, by requiring all Persons that shall hereafter be chosen Members of the Commons House of Assembly, and sit in the same, to, &c. and to conform to the Religious Worship in this Province, according to the Church of England, and to receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the said Church.* Whereas the Act

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only obliges *some* Persons that shall hereafter be chosen Members of the Commons House of Assembly, so to conform, and so to receive the Sacrament. And whom does it so oblige? Why those who conscientiously receive the Sacrament, according to its Institution, with the Dissenters; but scruple to receive it, according to some Rites of human Additions, in the Church; which are allow'd by the Church it self to be indifferent, and scrupl'd by some of these Dissenters as unlawful. And whom does it not oblige? Why those who impiously refuse to receive it any where, and to prepare and fit themselves rightly so to do, according to our Saviour's positive Injunction and Command. Which is to exclude some conscientious Men out of the Commons House, and to make an express Provision to keep in several of those, who resolve to lead Lives, for which their own Consciences reproach and condemn them. And this is the sense that the aforesaid Clergyman has of this Act, who tells the Palatine and Proprietors, in the Petition above quoted, *That he cannot think it will be much for the Credit and Service of the Church of England there, that a Door shou'd be so directly open'd, and such Provision made for the most Loose and Profligate Persons to sit and vote in the making their Laws, who will but take the Oath appointed by the said Act.*

But to what *Absurditys*, to what *Inconsistencys*, to what *Villany* will not Faction and Bigotry lead Men? Here is an Act, whose Title and enacting Part do in such explicite and positive Terms contradict and overthrow each other, as leaves no room for the blindest Charity to excuse the Men who fram'd and pass'd it, from the most design'd Cheat and Hypocrisy imaginable. Nor does the Title and Act compar'd together contain all its Illusions. For the very Preamble of the Act it self is founded upon two manifest Falshoods, *That it hath been found by Experience, &c. and that by the Laws and Usage of England, &c.* See the Pre. amble to this Act, N<sup>o</sup> 6. and is every whit as inconsistent with the Body of the Act, as the Title is. For it asserts that nothing is more inconsistent with the Christian Religion, and particularly with the Doctrine of the Church of *England*, than Persecution for Conscience only: And nevertheless enacts, That every body shall be persecuted who abstains from receiving the Sacrament, according to certain Rites of the Church of *England*, for Conscience only. It asserts, That a Man may be a sincere Professor of the Religion of the Church of *England*, and a sincere Conformist to the same, who neither receives the Sacrament with the Church, and who owns himself not rightly and fitly prepar'd already to receive it, and yet does not profess any Design to prepare himself any better for the time to come.

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Nor was this Bill fram'd to exclude Protestant Dissenters only the Commons House of Assembly, but *all moderate Churchmen*, and to fill the House with Men of the most high and violent Principles in the Province. So much the Framers of this Act had it in their View to strengthen a mere Faction, that arrogate to themselves the name of Churchmen. For it takes all imaginable Care, that when by this Act a Dissenter shall be turn'd out of the Commons House of Assembly, a Man of high and violent Principles may *ipso facto* succeed him. For they do not enact, that upon a Dissenter's being turn'd out, a new Writ shall issue, as in all Reason and Justice they ought to have done, lest the County that sent a Dissenter, shou'd send a Churchman, who shou'd prove as little to their purpose. But instead of ordering a new Writ to issue, order contrary to the very nature of a fair Representation, that the Candidate, that had the greatest Number of Votes next to the Dissenter, shall be the Representative of that County: Men of violent and persecuting Principles being the Men that are usually Competitors with the Dissenters at such Elections.

And thus they have secur'd the Commons House of Assembly to their own Faction: And by securing that, they have, as far as the nature of their Proprietary Constitution will permit, *secur'd the Government* entirely in their own Hands; they having no upper House, consisting of an Hereditary Landed Nobility, as by both the first and last fundamental Constitutions they ought to have. Instead of which, their upper House consists only of the Deputys of the Proprietors, who also compose the Council. By which means the Board of Proprietors have the power of three Estates, as well as all the executive Power of the Province; whereas by their fundamental Constitutions they ought to have but the Power of one. And thus the most equal and best balanc'd Government, that perhaps ever was in the World, where the several Parts of the Government were the truest Checks upon each other that cou'd possibly be devis'd, is dwindled into a single Faction subject to no Check or Controul.

Thus we see with what Views to the State this Act was pass. And indeed I scarce believe any body ever thought that this Act in *Carolina*, or a Bill of a like Nature here, was ever design'd for the good of the State; which all narrowing and secluding Laws must necessarily weaken and enervate. Upon which account some were against a Bill of a like Nature here in a time of War, that wou'd have been for it, for the sake of the Church, in a time of Peace. Tho that only amounts to this, That they were against weakening *England* in a time of War, lest the Church shou'd suffer by it; but that they wou'd



be for weakening it in a time of Peace; because the Church wou'd then be out of Danger. Thus a Society, which some Men call the Church, is set up as a Corporation within our selves, whose Interest is directly inconsistent with the Good of the State; at the same time, that it is thought superior to that of the State: Which it seems is to be intirely subordinated to the Benefit and Advantage of this Society, whenever they come in competition. And tho' the Sabbath was made for Man, and not Man for the Sabbath; yet it shou'd seem, that, in their Opinion, Mankind was made for a Set of Men that call themselves the Church, and not the Church for Mankind. So that the only Dispute between those Men, who wēre against a Bill of a like nature here, because it was a time of War, and those who were for it, notwithstanding it was a time of War, was only which was most for the Benefit of this Corporation; whereas the Good of *England* was quite out of the Question depending betwixt them.

But they might easily have seen that such an Act as that wou'd have put the *Church*, as it is a distinct Society from the State, into almost as great Danger as the State it self. For it had put the Church intirely into the Hands of a Faction, which might have turn'd against the Church it self, and set up for the Nonjuring or *Gallican* Church, or have got the whole Ecclesiastical Power into their own Hands, and have made a Lay-Church, and themselves the Bishops of it. For when a Tyrannical Power is once establish'd, the very Men that establish'd it have no Security that they shan't be the first that shall feel its dire Effects; or at least, that they shall not be drawn into and suck'd up in that bottomless and unsatiable Whirlpool. This I mention the rather, because it is what has actually happen'd in *Carolina*. For the very Faction that this Act has confirm'd and establish'd there, has since censur'd the Reverend Mr. *Marston*, Minister of the Church of *England* in *Charles-Town*, for three Passages of a Sermon preach'd by him there: Two of which Passages were not in the said Sermon, *viz.* The first and the last. And the third Passage (which was the second Passage charg'd upon him) was only, that the Clergy had a Divine Right to a Maintenance: As may be seen by a Paper hereunto annex'd. N<sup>o</sup> 11. And after this Faction in the Lower House had censur'd Mr. *Marston*, for these Passages in his Sermon, they proceeded to make an Ordinance (which is only a Resolution of both Houses) to deprive him of his Salary settled on him by Act of Parliament, and of 50*l.* besides due to him by an Act of Assembly: And both the Censure and Ordinance were made, without citing him or giving him any Opportunity to vindicate himself.

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And they have since colour'd over their Violences against this Clergyman by a Law, as they did their Violences against the People in general, as has been before observ'd. And have since this Censure and Ordinance brought in an Act, as prejudicial and fatal to Episcopacy, as the former was to the Toleration: A Copy of which is hereunto annex'd. By which Act they have intirely wrested the Jurisdiction over the Clergy, out of the Hands of the Bishop of the Diocess, and have set up a High Commission Court, and given themselves a merely Ecclesiastical Cognizance, as it was notorious they threatned they wou'd some time before they accomplish'd their Design. And a much larger Cognizance it is, and a much greater Power, than the Crown or the Bishops have over the Clergy here. And however quietly this may be submitted to by the Diocesan, now 'tis done by good Churchmen, yet 'tis easy to conceive what an incredible Clamour this wou'd have rais'd, as a Design to ruin the very Essence and Being of an Episcopal Church, if it had been done by any others. But 'tis very evident, that Characters and Names are first fix'd upon Men, and that all their Actions are judg'd of by those Characters. And so it comes to pass, that some Men are never allow'd to do any thing for the Service of the Church, as others can sanctify the greatest Sacrilege. Thus among the Pure, every thing is pure; whilst by the Impure, every thing is defil'd. By this means are the most illegal Practices against this Clergyman justify'd by a Law, that is it self as illegal. And no body, I believe, that takes this to be the Case, will at all wonder, that Men that have assum'd a Power to themselves so destructive of the Constitution of the Church of *England*, have since us'd that Power as injuriously as they have acquir'd it, to the depriving this Gentleman *ab Officio*, as the Commons House had done by an Ordinance, *a Beneficio*. For 'tis to be observ'd, to this Clergyman's Honour, that he preach'd in his Church as long as the Government wou'd allow him that Liberty, after he had been, by the most complicated Injustice imaginable, depriv'd of his Salary by an Ordinance of both Houses.

By all which it appears, that the sole view of that Set of Men, who have abetted and pass'd this Act, was so far from being any design to restrain the Dissenters for the Good of the Church or State, that it was nothing but a Conspiracy to destroy the Dissenters, and every thing in their Civil and Ecclesiastical Constitution, that did but restrain 'em from an uncontrollable Domination in the one and the other, in order to make themselves by the Ruin of both. But every thing that did but check or restrain 'em being now remov'd out of the way, and the Faction having ingross'd and perpetuated the whole Power of the Province in their

own hands, they found they had nothing to fear but from *England*; where they knew a Redress of these Grievances might be obtain'd. And they were so justly apprehensive lest these Arbitrary and Tyrannical Proceedings should comè under the Cognizance of the Queen in Parliament, or in her Courts of *Westminster-hall*, whose Nature and Principles make Justice and Mercy the happy Temperature of her Reign; that they took all imaginable Precautions to prevent any Accounts of these intolerable Grievances from being sent hither. They were very sensible, that her Majesty, who takes care that the meanest and the remotest of her good Subjects, as well as those who have the Misfortune to differ from her, should find in so great a Measure the Equity, and the Gentleness of her Administration; That She, I say, would never suffer her free and liege People of *Carolina* to be the only Persons who should unfortunately feel the heavy Yoke of Persecution and Slavery.

They therefore in the first place were very watchful to prevent Mr. *A-b* from coming over into *England* in behalf of these oppress'd People; so that it was not without the greatest Hazard and Difficulty that he got away from *Carolina* to *Virginia*, where he was forc'd to stay till his Powers and Instructions could be convey'd after him. From thence he came to *England*, and after he had been here some time, and made earnest Application to the *Palatine* and the Board of Proprietors for a Redress of these Grievances without any manner of Success, and without any farther hopes of obtaining any, he resolv'd to have publish'd a full Account of all these Grievances in a Pamphlet entitul'd, *The present State of Carolina*. But he only liv'd to print a Sheet of it; and his Papers being sent over to his Relations in *Carolina* by Mr. *M—sel—y* his pretended Friend and Confident, were treacherously deliver'd to the Governor's Agents, and as treacherously receiv'd by them. And they finding themselves justly expos'd in 'em, have stifi'd and suppress'd 'em to the great Injury of his Relations, and the oppress'd People of *Carolina*: Since the Account of a Gentleman so thoroughly acquainted with their Constitution and the Violations of it, and who was so sensibly touch'd with the Injuries he saw and felt in consequence of those Violations, must needs be but indifferently supply'd by any other hand: Especially considering that the Governor and his Agents have prosecuted and insulted several of the Inhabitants, and particularly *Landgrave Smith*, upon the account of some private Letters which they sent to the said Mr. *A—b*, whilst he was in *Virginia* and *England*, and which were found among the Papers that were deliver'd by the said Mr. *M—sel—y* to the Governor's Agents. And by these and such like Methods they have terrify'd and frighten'd others

A Copy  
whereof is  
hereunto  
annex'd,  
N<sup>o</sup> 4.



from sending the like Accounts. They take great care too to intercept such Accounts as they can't intirely prevent; and deter us from printing some of those Accounts we have, by the barbarous Usage they have given to those, whom they have discover'd to have corresponded with the said Mr. *A-b*. This Account of the Arbitrary Proceedings of the Government against such as dare write their Mind too freely, will I hope excuse it to the Reader, if some of the Accounts we have given of the Grievances of *Carolina*, be not so clear or so well vouch'd as might be wish'd; together with the Misfortune that besel two Ships, which were coming from thence to *England*; by which, notwithstanding these Arbitrary Proceedings, some of the Principal Inhabitants had ventur'd to send a full Account of the present State of things there to Mr. *B* — *ne*, the present Agent on their behalf. And as Providence has favour'd the Authors of these Grievances by the loss of these two Ships; so they hope by all the steps which they themselves have taken, that they shall be skreen'd for ever from *Justice*, and that they have perpetuated the Power of making and executing Laws in the hands of a *small Faction*, that will not fail to enact both *partial and enslaving Laws*, at the same time that they take care to execute the Laws they make with the same partiality with which they made them; and so turn the whole *Course of Justice* into nothing but *Favor and Oppression*.

To the Shame of the Protestant Religion, of the Church of *England*, and the free Spirit of an *Englishman*, must such an Act and such Practices as these for ever stand upon Record! Proceedings that perhaps the Jesuits, out of all the Archives which contain the History of their bloody Contrivances and Machinations to propagate Slavery and Superstition, can hardly produce any thing to out-shine! Proceedings which will not only give just Scandal to all Christian People, but even to the barbarous and savage Natives of the Place, tho' their Conversion to the Christian Faith is said to be one of the Motives which induc'd the King to grant the Charter. But these Proceedings instead of converting 'em will justly scare 'em, and keep 'em at a distance from a Religion whose Professors they find to be guilty of such Practices, or at least to abet and countenance 'em; instead of those convincing Methods of *Gentleness, good Usage and Probity, suitable to the Rules and Designs of the Gospel*, by which, as the 97th § of the Fundamental Constitutions admirably expresses it, they can alone be won over to embrace and unfeignedly receive the Truth. And I hope all Men who have been celebrated for such Patrons and Heads of the Church, as that its very Security has been at least pretended to ebb and flow with their Power and Credit in *England*; I hope, I say, if any such have had any hand in passing this Bill, that they will either disown what they have done, and convince the World

of

of the Sincerity of their Repentance, by undoing what they have so unjustly done; or if they will not, that in Justice to the Church of *England* they will disown her, or at least that she will for her own Honour disown them. And if any of the Persons who have had any hand in passing this Bill, have any design to bring in a Bill of a like Nature here; 'tis to be hop'd, that the Dissenters in *Carolina* will at least gain their Assistance by that means towards the repealing it there, till the like Act be obtain'd here. Since 'tis certain that the Methods by which this Bill has been obtain'd there, and the Effects it has produc'd, are very far from recommending it to any true Friend of our Constitution in Church or State.

Thus it appears what the Men are that this Act will in all Probability drive out of that Province, and what sort of Men they are that drive 'em out of it. Let us see then the Ruin and Destruction that must necessarily ensue upon its being abandon'd, by such a Number of such Inhabitants as this Act alone will drive away; without reckoning those that may be driven away by the other Infractions upon their Constitution in Church and State, that have both preceded and follow'd it. And even the Depopulation that this Act will produce, must necessarily be the utter Ruin of that Colony. For the Riches of a Country are its Productions, which are to be barter'd for other Productions, of other Parts of the World. its Productions are the Effects of Industry, and Industry the necessary Effect of the Number and Increase of Inhabitants. So that if you hinder the Increase and lessen the Number of the People, you abate and put a stop to all the rest. When the Hands are gone, that us'd to manure the Land, clean the Rice, and graze the Cattle; and when the Merchants are remov'd, that dealt in Furs, Pitch, Tar, Corn, Slaves and Negroes, with other profitable Commodities, what will Proprietorships, Signiorys, Baronys and Colonys be worth? And what will become of the Revenue of Industry, that arises from the very Management of these several Branches of Trade?

The *first* Proprietors were so sensible that nothing could people that Province, and enrich it, but an Universal and Absolute Toleration, that they made the most express and ample Provision for such a Toleration, that ever was made in any Constitution in the World. As may be seen § 96, 101, 102, 106. of the fundamental Constitutions of *Carolina*: Which I am satisfy'd will give a sensible Pleasure to all true Friends to Liberty, who have not seen those Paragraphs, to peruse. And that which is the more remarkable, is, that this ample Provision was made by several of the Proprietors, who were at that time chief Instruments of the Persecution that was carried on against

the Protestant Dissenters here, as the *Lord Chancellor Clarendon*, the *Duke of Albermarle*, Master of the Horse, and others: Well knowing, that how much soever it might be for their private Interest to instigate King *Charles II.* to prosecute his Protestant dissenting Subjects in *England*, and to promote those Prosecutions as much as they cou'd, in order to keep the Places and Power of *England* in their own hands, that so they might make their Fortunes at the Expence of the Publick; yet that nothing but the largest and best secur'd Toleration cou'd ever make a Country, of which they were the Proprietors, turn to a good account. And tho this Conduct does not much commend their Faithfulness, as Stewards to the King or the Publick; yet it makes their prudent management of a Province, which they were to govern for themselves, the more conspicuous. Nor did this universal and absolute Toleration disappoint and frustrate their Expectations: For tho *Carolina* wants a good Port, and is without some other things that wou'd promote and facilitate Trade, yet by virtue of this ample Toleration, and its Security in such an equal Constitution of Government, it became one of the most flourishing of all our Colonys.

And the *Successors* of the first Proprietors seem to have been so sensible, that nothing could tend more to the making this Colony rich and prosperous, than pursuing the same Measures, that they resolv'd upon confirming the Toleration that was at first granted. For in the Constitutions they sent over in the Year 1669. tho they left out the greatest part of the 96th Paragraph of the first Fundamental Constitutions, because they design'd to reduce those Constitutions to a smaller number; yet they left out nothing but what was barely introductory to the Constituting and Ordaining part of that very Paragraph; but have left the Ordaining part it self intire: And so they have all the other Paragraphs which were just now cited out of the first Fundamental Constitutions; which together with the 102d and 106th Paragraphs, may be seen in the last Fundamental Constitutions, §. 27th, 31st, 32d, 36th.

The principal Merchants in *London* trading to *Carolina* were so sensible how prejudicial breaking in upon the Toleration there must be to the good of the Country in general, and to Trade in particular, that they sign'd a Petition to the Lord *Gr--nu--lle* their present Palatine, and the rest of the Proprietors, representing how prejudicial it wou'd be to the true Interest of that Colony upon many accounts; and praying that they wou'd disallow the Law, and order its Repeal. Which Petition they lodg'd in the hands of Mr. *B--ne* the Agent here on behalf of the oppress'd People of that Province. But he found the said Palatine so resolv'd to pass this Act, that he saw it was to no purpose to deliver it to him.

A Copy  
whereof is  
hereunto  
annex'd,  
No. 9.

But



But tho the *present* *Palatine* has pursu'd quite different Measures from all his Predecessors ; and has obtain'd the Consent of a majority of that Board of Proprietors, which was summon'd and met upon that occasion, to confirm this unprecedented Law ; and tho 'tis most the Business of the rest of the Proprietors to enquire, whether these Measures of his are the effect of want of due consideration, and a true knowledg of his Interest, or of sheer Bigotry and Faction ; or whether the Party his Excellency is pleas'd to *head and countenance*, as he has thought fit to express himself, have any secret Ways to recompense him for gratifying them at the Expence of his own apparent Interest and Obligations : Yet I believe every considering Person will think it the Business of the Government to take care, that by such Methods as these, a flourishing Colony be not depopulated ; and that a very useful and beneficial Trade, which *England* drives with that Colony, and which that Colony drives with *England*, and several of the Plantations, to the raising her Majesty's Customs, as well as to the great conveniency and enriching of her Majesty's Subjects, be not discourag'd or interrupted.

Thus it appears how great an Instance of Ingratitude to the Dissenters this Act is ; and how highly prejudicial to the Queen, to Trade, to the Proprietors and the Inhabitants of *Carolina*. And the Ingratitude and destructive Nature of this Act to the true Interest of that Province, does not only fix those Characters upon the Act it self, but upon those that pass'd it ; since its Injustice and Oppression are too obvious for almost any one not to have seen, that did not wilfully shut his Eyes. But however it might perhaps be said, to excuse them from being conscious of the Injustice and Oppression of this Act, that it is barely possible for those that pass'd it to have been ignorant of the generous Behaviour of the Dissenters ; and to have been so perfectly injudicious and unexperienc'd in publick Affairs, as to imagine that to be for the Good of the Country, which must inevitably prove its Ruin ; or to have been so set upon doing something, that according to their Prejudices and mistaken Notions might be for the Service of the Church, as to have intirely forgot and over-look'd the Civil Interest of the Province. I say, all this might be said in excuse of this Act, and those that pass'd it, if it were not a *Breach of the express Original Contract* between the Proprietors and the People of *Carolina*. But if this Act appears to be a Breach of that Contract, I think, as nothing further need to be said against the Act, so nothing can be said in vindication of the Makers of it. For when Men come  
once

once breaking of Faith, tho plighted in the most solemn manner that can be devis'd ; let it be broke with Hereticks or Schismatics, or whom you please, and let it be done never so much for the Service of God and his Church ; I think, I say, such Men can't have the good Opinion of any Protestant any longer, or easily obtain it of any disinterested one, to stand up in their Vindication or Excuse.

I suppose 'twill be easily allow'd to me, in order to make good this Charge, that any Law of *Carolina* that contradicts the *Charter*, or the fundamental Constitutions of that Province, is a Breach of the Original Contract between the Proprietors and the People. For tho the two Charters (which do but grant different Parcels of Land, but are else *verbatim* the same) being Grants from the Crown to the Proprietors, of all the Title, Powers and Privileges which they have as Proprietors of *Carolina* upon certain Conditions, is immediately a Contract between the Sovereign and the Proprietors ; upon which account any thing done by the Proprietors against the Charter is a Forfeiture of the Charter, upon which a *Quo Warranto* will lie : Yet several of the Limitations in that Charter being Provisions made by the Sovereign, in favour of his Liege and Free People who shou'd transplant themselves thither, and in Justice to those Inhabitants who were already there, and were not subject to the Title, Powers and Privileges granted by such Charter, nor cou'd not be made subject to the said Title, Powers and Privileges, without their own Consent ; therefore all such Limitations of the Proprietors, in favour of the People, may be consider'd as tacit Stipulations of the Proprietors with the People themselves : Since they have submitted to the Proprietors, or transplanted themselves to the Colony, upon the just Presumption, that the Proprietors wou'd act pursuant to such Provisoes and Limitations.

And as to the *fundamental Constitutions*, they being the Rule of Government, which, pursuant to the Charters, the first Proprietors oblig'd themselves their Heirs and Successors to observe perpetually, in the most binding ways that cou'd be devis'd in case the People shou'd accept 'em ; if the People hereupon did accept 'em, they immediately became an express Contract between the Proprietors and the People ; and must necessarily be consider'd as such. Accordingly they were thought so good a Rule of Government by those who were settled there before the Grant of this Charter, and by several here, who transplanted themselves thither, in confidence that they wou'd be observ'd as the perpetual Rule and Form of Government, that they were respectively sworn to or subscrib'd by all those that continu'd in *Carolina*, or came to settle there, as the fundamental Constitutions of the Province :

And

See the  
Preamble  
to the first  
Fundamen-  
tal Consti-  
tution,  
N<sup>o</sup> 2.  
See also  
S. 120. of  
the said  
Constitu-  
tions.



And no Person cou'd become a Freeman, or enter upon any Office, or vote or act in either House of Assembly, that had not first sworn to them, or subscribed them, according to the Provision made in the 117 §. of the said Constitutions: Which runs thus, *Nor shall any Person, of what Condition or Degree soever, above seventeen years old, have any Estate or Possession in Carolina, or Protection or Benefit of the Law there, who hath not before a Precinct-Register subscrib'd these Fundamental Constitutions.*

By which means the Proprietors became for ever bound to observe these Constitutions, as the perpetual Rule of their Government, and can never become disengag'd, till all such of the People, as have consented to 'em, consent to repeal 'em, in the same manner in which they consented to them; that is to say, till they consent to repeal them *in Person*. For their *Consent by their Representatives* can never be thought sufficient, unless Representatives were chosen on purpose to consent to repeal the present fundamental Constitutions, or settle new Constitutions, as to them shou'd seem most meet and convenient. For a Representative of the People is no farther a Representative than he is design'd to represent them. Now the Representatives of the People of *Carolina* are chosen by their Principals, pursuant to these Constitutions, and are chosen to act in representing them, only in pursuance of these Constitutions. And accordingly it is provided by the Constitutions, §. 77. *That if any Proprietor or his Deputy, before the Palatine or his Deputy's Consent be given to an Act of Parliament, shall enter his Protestation against the said Act, as contrary to any of the fundamental Constitutions; that in such Case, after a full and free Debate, the several Estates shall enter into four several Chambers, and if the Majority of any of the four Estates shall vote that the Law is not agreeable to these fundamental Constitutions, then it shall pass no further, but be as if it had never been propos'd.* By which the Parliament of *Carolina* plainly appears to be ty'd up by these Constitutions, and to have no power to give them up, or to consent to their being repeal'd. So that it is very plain that the Parliament of *Carolina* can no more consent to alter or give up the fundamental Constitutions of *Carolina*, than the Parliament of *England* can give up *Magna Charta*, or the very Being and Power of Parliaments.

But it is farther to be consider'd, that there is *no Parliament* properly speaking in *Carolina*. For there is no Upper House, consisting of the Hereditary Landed Nobility of that Province, *viz.* Landgraves and Castles, as by the fundamental Constitutions there ought to be. And they are the only Men that have any right to lay claim to the Style and Powers of the Upper House. Indeed the Deputy's of the Proprietors

arrogate to themselves the Stile and Powers of the Upper House ; but they, or any other Set of Men than the Landgraves and Cassiques, may as well pretend to be the Proprietors or the Commons House, as the Upper House of Parliament of that Province. And therefore the Preamble to the fundamental Constitutions, that were drawn up in 1698, and sent over by Major Daniel, runs thus : *We the Lords Proprietors, with the Consent and Advice of the Landgraves and Cassiques, and Commons in this present Parliament assembled, &c.* A certain Argument that the Proprietors were satisfy'd that these Constitutions cou'd not be settled, nor the other repeal'd, without the Advice, at least, of the Landgraves and Cassiques, as well as the Commons in Parliament assembled. So that there being no Upper House of Parliament in *Carolina*, the Proprietors can never be releas'd from the first fundamental Constitutions, tho a Parliament should be thought to have the Power to release them ; because without an Upper House there is no Parliament.

But so far is it from being true, that the Parliament of *Carolina* has ever consented to the repealing these Constitutions of 1669, that the very *Commons House of Assembly with the Deputys of the Proprietors*, who arrogate to themselves the Stile and Power of the Upper House, have never consented to repeal them. So that either these are their Constitutions, or they have none at all. And if it be pretended that they have none at all, I would fain know how any of them came by any of the Property they are now seiz'd of ? By what Power the People ever met to chuse Men to represent them in the Commons House of Assembly ? By what Power the Sheriffs return'd them ? Or by what Power such a Number of Men assum'd to themselves the Stile or Power of a Commons House of Assembly ? All of which must have been prior to all Laws. So that 'tis certain, that the Fundamental Constitutions of 1669, commonly call'd the first Fundamental Constitutions, are and remain the Fundamental Constitutions of *Carolina*.

Indeed the Proprietors agreed to some other Fundamental Constitutions, commonly call'd the last Fundamental Constitutions ; and sent them over by Major Daniel in the year 1698, to be confirm'd, by and with the Consent of the Hereditary Nobility, Landgraves and Cassiques, and the Commons in Parliament assembled, tho very little differing in any thing but length from those of 1669. But these never were confirm'd in Parliament, nor is there any Parliament (of which Landgraves and Cassiques compose one House) to confirm them. So that there is not the least pretence to say that these of 1698, are the fundamental Constitutions of *Carolina*, or that those of 1669 are not.

See the Preamble to the 2d Fundam. Constitut. hereunto annex'd, N<sup>o</sup>. 3.

Thus



Thus it appears that the Charters and the Fundamental Constitutions of 1669, are the original Contract between the Proprietors and the People: Let us see then how this Contract has been broken by this disqualifying Act. And the *Inconsistency* of this Act with this Contract, will appear very plainly, if we consider the Matter and Form of this Law, and the Manner of obtaining it. The Act it self is absolutely inconsistent with the Charter of K. Charles II. See the That Charter empowers the Proprietors to make, ordain and enact Laws; Charter, only of and with the Advice, Assent and Approbation of the Freemen of P. 3. col. 1. the said Province, or of the greater part of them, or of their Delegates hereunto annex'd, or Deputys. Now by this Act the Commons House of Assembly N<sup>o</sup> 1. may happen to be so compos'd, as that there shall not be one Deputy or Delegate of the Freemen of the Province in it. For by this Act it may so happen, that not one that shall sit there, shall have a Majority of the Votes of the Freemen; without which, I suppose, 'twill not be pretended that any one is a Deputy or Delegate. For upon supposition that a Dissenter shou'd stand for every Place that has a Right to send a Deputy or Delegate to Parliament, and shou'd have never so great a Majority of Votes in all those Places, and be return'd; yet upon the Meeting of the Commons House of Assembly, they ought all to quit their Seats, pursuant to this Act; and those Candidates, who had the next Majority of Votes to them, must fill their Places, tho perhaps they had not the half of the Votes, that the Delegate had, See the Act, c. ult. being a Dissenter.

And tho perhaps it will be said, that I have put a Case which can never happen; because if it shou'd happen, that all the Members, that shou'd be return'd to Parliament, should be Dissenters, they would repeal this Law, and continue themselves the first thing they did; yet if this shou'd be done, in such Case, 'tis what according to this Act cou'd not be done. And at least this Absurdity will follow, that, in such Case, according to Law the Commons House of Assembly would consist of a Body of Men legally return'd, in which there was not one Delegate of the People. And it may in *Fact* happen according to this Act, that the Proprietors may make Laws without a Majority of the Delegates of the Freemen, all the Delegates being present; which is a Case as much against the Charter as the other. The Commons House of Assembly in *Carolina* consists of Thirty: Let us suppose then Fourteen of these Thirty, duly return'd by the Sheriffs, to be Dissenters; the other Sixteen must turn them out, and vote those Candidates

didates into the House, who had the greatest Number of Votes next to them, in their Places. In that case the House wou'd consist of sixteen Delegates and fourteen Men, who are no more Delegates, than they are Nobility or Proprietors. Let us further suppose one of the sixteen to die, and then before his Place cou'd be fill'd, the House would consist of fifteen Delegates and fourteen Men, who in reality are no Delegates. Let us then suppose a Bill to be brought into the Commons House, thus compos'd and constituted; and let us suppose one of the Delegates (whom we will farther suppose to be the Speaker) with the fourteen Men who are no Delegates, to be for this Bill, and the other fourteen Delegates to be against it: In this Case, the House being equally divided, the Speaker with the fourteen Men, who are no Delegates, wou'd carry this Bill against the fourteen Delegates; and so a Bill wou'd pass thro the Commons House, with the Advice and Consent of but one Delegate against fourteen.

But if so great a Breach and Violation of the Charter should never happen to the Freemen by this disqualifying Act, as may happen in the Cases which we have just now put; yet whenever this Act is put in execution, and a Man that has a Minority is voted into the House in pursuance of this Act, there will be an utter Defeating of the Right the Freemen of the respective Countys have to a *Representation*, pursuant to the said Charter. For a Man, who is not chosen by the Majority, is no more a Representative, than a Proprietor, or any thing else.

Thus this Act appears to be inconsistent with the Charter, in as much as, by virtue of it, Laws may be made without the Advice and Consent of the Freemen, or their Delegates: But neither is it consistent with the Charter for the Proprietors to make what Laws *they please, with the Consent of the said Freemen or their Delegates*. For the Charter restrains the said Proprietors to the making of such Laws only, of and with the Advice and Consent of the Freemen, as shall be consonant to Reason, and agreeable, as near as may be, to the Laws of *England*. Let us enquire then whether this Act be not inconsistent with these Restrictions and Provisoos.

The first of these Restrictions is *Consonancy to Reason*; by which two things are chiefly intended: That the Laws made of and with the Advice of the Freemen should be founded in Equity and Justice, and that they should be for the Advantage and Service of the Publick. But is the excluding Protestant Dissenters the Commons House of Assembly *founded in Equity and Justice*? Is it just or equitable to exclude those from so high a Trust, who have as great a share of that which is to

be



be intrusted as any there? Is it just to exclude two Thirds of the Inhabitants for the sake of one? Is it equitable to deprive them of the High Trusts of that Province, who bear by far the greater share of its Burdens? Is it fair to deprive those of this Privilege, who transplanted themselves thither, to the great Danger and Hazard of their Lives and Effects; and became subject to the Proprietors, upon the Prospect of being equally capable of this Privilege with the rest of their Neighbours? Or is it reasonable, to make those incapable, that are every way as capable as any, and that are by far more capable than some who remain so? To put a Mark of Disgrace upon those who have done nothing to deserve it? And to raise Fears and Apprehensions in those who ought to live with the Peace and Quiet of Mind, that belongs to an *English Subject*?

And from what has been said before, it must follow, that this Law is as far from being for the *Advantage and Interest* of that Province, as Persecution is from being for its Advantage in general; and that it is particularly as far from being for its Interest, as it can be to seclude a Body of Men from ever advising with the Proprietors about making and ordaining Laws, who are as well fitted by their Prudence, Integrity and Interest, to advise with 'em, as any in the Province. In one word, 'tis as much against the Interest of that Province, as a Persecution can be, that will drive away two Thirds of the Inhabitants, which in all don't exceed 10000 Souls, out of a Country, which is inhabited from North to South about 150 Miles, and about 50 from East to West: And which must in Reason, as it has in Fact, end in establishing the Government in a Faction, to the utter Ruin of the Constitution in Church and State: And that can end in nothing, but driving away the best, and leaving only the worst of the few Inhabitants, that shall remain.

The other Restriction is, *Agreeableness as near as may be to the Laws of England*. This the Framers of this Act were so sensible of, that they found this Act upon the Supposition that the like Act is in force in *England*: A plain Intimation, that they knew that this Act cou'd not be valid without it. However false the Assertion is, yet, I suppose, the Framers of this Act had positive Information, that after the Occasional Bill should pass here (which their Correspondents it seems were very sure of) that another would pass for excluding the Dissenters the House of Commons. And tho, God be prais'd, their Information prov'd false; yet it lets us farther into the

See the Preamble to the Act, N<sup>o</sup> 6. p. 38.



the secret Designs of the Authors and Promoters of the Occasional Bill here, than they cou'd ever yet be brought to own. But it has been an old Observation, that under some Administrations, the best home News was always to be seen in the Articles from *Paris*: And I believe it has been this once as true of the Accounts from *Carolina*: And perhaps the farther Laws and Proceedings there will confirm this Observation, and will give us the best Light into the Steps that were to have been taken here, if the Predictions which were sent to *Carolina* about a Bill of the same nature in *England*, in order to give the better face to this Bill there, had come to pass.

Nor is this Act more inconsistent with the Charter, than with the Fundamental Constitutions of *Carolina*. They provide, §. 97, 101. That since the Natives of that Place, who will be concern'd in our Plantations, are utter Strangers to Christianity, whose Idolatry, Ignorance, or Mistake, gives us no Right to expel or use them ill; and that those who remove from other Parts to plant there, will unavoidably be of different Opinions concerning Matters of Religion, the Liberty whereof they will expect to have allow'd them; and that it will not be reasonable for us on this account to keep them out, therefore that Civil Peace may be maintain'd amidst the Diversity of Opinions, and our Agreement and Compact with all Men may be duly and faithfully observ'd, the Violation whereof, upon what pretence soever, cannot be without great Offence to Almighty God, and great Scandal to the true Religion which we profess: And also that Jews, Heathens, and other Dissenters from the Purity of Christian Religion, may not be scar'd and kept at a distance from it; but by having an opportunity of acquainting themselves with the Truth and Reasonableness of its Doctrines, and the Peaceableness and Inoffensiveness of its Professors, may by good Usage and Persuasion, and all those convincing Methods of Gentleness and Meekness, suitable to the Rules and Design of the Gospel, be won over to embrace, and unfeignedly receive the Truth. Therefore the said Constitutions among other things provide, §. 101. That no Person above seventeen Years of Age, shall have any benefit or protection of the Law, or be capable of any place of Profit or Honour, which is not a Member of some Church or Profession, having his Name recorded in some one religious Record at once. The Constitutions therefore require nothing more to make any Person capable of any Place of Profit or Honour, than to be a Member of some Church or Profession, and to have his Name in some one, and but one religious Record at once. So that this Act that requires Men to be of the Profession of the Church of *England* only,

to make them capable of sitting in the Commons House of Assembly, is a direct violation of these Fundamental Constitutions. And as the Ordaining part of this Act is a violation of them, so is the *Preamble* too, upon which the ordaining part of this Act is built. For that supposes, that the best way to prevent Contentions, and Animosities in the Commons House of Assembly, upon the account of different Persuasions and Interests in Matters of Religion, is to make Persons of a different Persuasion, incapable of the Honour of sitting there. Whereas the 97th and the 101st Paragraphs assert, *That to maintain Civil Peace amidst the diversities of Opinions, the best way is to require nothing more to make Men capable of any Places of Honour or Profit, than to be of some one Profession or other.*

Thus we see upon how many Accounts this Act it self is inconsistent with the Original Contract. Nor is it less so upon the account of those *illegal and undue Methods* by which it was obtain'd: So that had this Act been never so consonant to Reason, and agreeable to the Laws of *England*; yet it had been *ipso facto* void, because it was obtain'd in a manner directly contrary to other Provisions of the Charter, and of the Fundamental Constitutions. For it was in the first place pass'd without the Advice and Consent of those, without whom no Law can pass in *Carolina*. For it is provided by the Fundamental Constitutions, 'That the Parliament of *Carolina* shall consist of *Landgraves and Cassiques* (who are by their Dignity to have Right of Session, and are the Hereditary Nobility of *Carolina*) as well as of Proprietors and Freeholders; and that no Act shall pass but with their Consent and Advice. But this Act was obtain'd without so much as calling the said *Landgraves and Cassiques*; so far was this Act from passing with their Advice and Consent. By which it is plain, that this is no more an Act of *Carolina*, than an Act pass'd by the Queen, with the Advice of the Commons, without the Advice of the Lords Spiritual and Temporal, would be a Law of *England*.

And as this Act was pass'd without the Advice and Consent of those who ought to have been call'd; so it was in the next place pass'd by *those who had no Right* to Ordain or Enact any Law or Ordinance whatsoever. The Charter gives the Proprietors power to pass Laws consonant to Reason, and agreeable, as near as may be, to the Laws of *England*; *only by and with the Advice of the Freemen, or of the majority of the said Freemen, or of their Delegates.* And the Fundamental Constitutions require, that every Man that chuses a Member of Parliament, shall have fifty Acres of Freehold. But this disqualifying Act was pass'd by Delegates, who were chosen in *Berkley-County* (which sends Twenty out of the Thirty that

*Fund. Const.*  
N<sup>o</sup>. 2.  
S. 9, 71.

*Charter,*  
N<sup>o</sup>. 1. p. 3.  
*Col. 1.*  
*Fund. Const.*  
N<sup>o</sup>. 2.  
S. 72.



Repr. N<sup>o</sup>. 5. Art. 13. that compose the whole Commons House of Assembly) by Jews, Strangers, Sailors, Servants, Negroes; and by almost every Frenchman, who never profes'd themselves to take the Oaths of Allegiance (which was the only thing requir'd of them, in order to their Naturalization) in *Craven* and *Berkley-County*. All these Votes were taken by the Sheriff, according to express Instructions from some in the Government, as the said Sheriff publicly confess'd. And the Candidates they voted for were Return'd by the Majority that such illegal Votes gave them, to the great Prejudice of the other Candidates, and the Freemen and Free-holders of the said Countys. Nor has there been any Redress to be had in the Commons House of Assembly against these undue Elections and Returns.

Address,  
N<sup>o</sup>. 7.  
Col. 1.

But notwithstanding that the Commons House of Assembly was compos'd of Members so unduly Chosen and Return'd; yet as bad as it was, the Faction saw, they should not be able to get this Act to pass that House, but by surprize. Wherefore the Governor, *Sir Nath. Johnson*, prorogu'd the Assembly, after it had met, to the 10<sup>th</sup> of *May*. The Assembly was dispers'd, and several of the Members went to their respective Countys, and order'd their Affairs so, as that they might be able to return when the Prorogation should expire. But all on a sudden, contrary to the very nature of a Prorogation, they were call'd together by Proclamation, to sit on the 26<sup>th</sup> of *April*. But that the Members might not be too much alarm'd, the Assembly was continu'd together Seven or Eight days, with little or no Business before them. But on the 4<sup>th</sup> of *May*, when the Members at a distance were under no apprehension of any Matter coming upon the Stage, which should induce them to return, to the great Inconveniency of their own Business, before the said 10<sup>th</sup> of *May*; I say, upon the said 4<sup>th</sup> of *May*, this Bill was brought into the Commons House of Assembly, and hurry'd so precipitately through that House, that it pass'd the 6<sup>th</sup>, four days before the Time came, to which they were prorogu'd; and consequently *four days before any legal Assembly cou'd be held*. By this means there were never above Twenty three Members of the Commons House present from the 26<sup>th</sup> of *April* to the 6<sup>th</sup> of *May*. From whence it follows, that almost one Fourth of the House must have been absent: And of the Twenty three that were present, there was but One more for it than against it; and several of those that were against it, were Members of the Church of *England*. And if the other Seven had been there, the Bill had, in all probability,



hability, never pass'd: So that it could never have got thro the worst Commons House that ever sat in Carolina, but by such like illegal Practices, as had procur'd the Elections and Returns of the Majority of those that compos'd it.

And to the rest of these Arbitrary Proceedings, the Upper House added that of the refusing Landgrave Joseph Morton, a Deputy to one of the Proprietors, the Liberty of entering his Protestation and Dissent: Notwithstanding that there is an express Provision made for a Liberty of protesting in the 77th § of the Fundamental Constitutions: Nor is a Deputy's Right of Protesting only the bare empty Privilege, to have it stand upon Record, that he did not give his Consent to such a Law; but is the Foundation of putting a Question to each of the several Estates separately, whether the Act be not contrary to the Fundamental Constitutions, and of a Right that the Majority of any one of the Estates have in such case to the rejecting the said Act; as may be fully seen in the said 77th Paragraph.

But that it may appear that this Act wants nothing that can tend to make it the most finish'd Piece of Injustice, of any thing that ever had the Face of Law; it must be noted, that it is not only illegal upon the account of the Matter of the Law, and the Methods of obtaining it; but upon the account of its very Form and Stile. For there is first of all an Usurpation of the Regal Authority in the Stile of the Act. For it runs thus: Be it enacted by his Excellency John Lord Granville, and the rest of the true and absolute Lords and Proprietors of Carolina: A Stile never assum'd by them till very lately. Nor can it be pleaded in Vindication of this Stile, that they are stil'd so in the Charter: For there they are stil'd so with two Savings, neither of which are here express: The one of the Right of the Crown, the other of the English Subjects settl'd there at the time of the granting the Charter, if there were any.

Chart.

N<sup>o</sup> 1. p. 2. col. 2.

And as it has too much upon this Account to have the Form of an Act of Carolina; so it has too little upon another. For this Act is not said to be enacted by the Palatine, and the rest of the Proprietors by and with the Advice of the Landgraves and Cassiques, as 'tis plain all their Acts should run; as fully appears by the Form of the Preamble to the first and second Fundamental Constitutions: But instead of being enacted in this Form, it is only said to be enacted by the Authority of the Palatine, and the rest of the Proprietors, by and with the Advice and Consent of the rest of the Members of the General Assembly. A Stile altogether as new as is that of the Proprietors. By all which

which it plainly appears, that it is almost impossible for any Act to have any Absurdity or Illegality that this has not.

And tho' it very much imports the Palatine, and the Proprietors to take Care to inform themselves of the true State of *Carolina*, and to be watchful in discovering and rectifying any Abuses that may creep into the Administration of Government there; both in a just Regard to their own true Interest, and Obligations to the Interest of the People, who have subjected themselves to their Government: Yet they have been so far from this, as to neglect the repeated Applications of the poor oppress'd People against this Law, with the greatest Partiality and Arbitrariness imaginable. Mr. *A—b*, who was first sent over as Agent in their behalf, would have told the World how little Encouragement he had met with from the Palatine and Proprietors, if he had liv'd to have finish'd a Tract which he was publishing (and which we have mention'd before) entitul'd *The present State of Affairs in Carolina*. And Mr. *B—ne*, who succeeded this Gentleman in his Solicitation on their behalf, apply'd to the Palatine seven Weeks before he could obtain a Board of Proprietors to be call'd, in order to consider whether this Bill should be ratify'd or repeal'd. When it was call'd, one Mr. *A—cbd—le*, who is become a Proprietor since the passing this Act, and was formerly Governour of *Carolina*, whose Prudence and Integrity procur'd him the universal Respect of the Inhabitants there, oppos'd the ratifying this Bill at the said Board; as a Bill, that was highly injurious to the Protestant Dissenters of that Province in particular, and to the true Interest of the Proprietors and all the People in general: But the Answer he receiv'd from the Palatine to all his Reasons, was this; which shews that no Reasons of that kind, how strongly soever they might be urg'd, could have any weight with him; *Sir, you are of one Opinion, and I am of another, and our Lives may not be long enough to end the Controversy; I am for this Bill, and this is the Party that I will head and countenance.* After he had express'd himself in this manner, Mr. *B—ne* pray'd he might be heard by Counsel against this Act, to satisfy his Principals; that he had neglected nothing that cou'd be for their Service; tho' he easily perceiv'd from the Answer his Excellency gave Mr. *A—cbd—le*, that it cou'd serve no other end: But he only receiv'd this Answer; *What Business has Counsel here? It is a prudential Act in me, and I will do as I see fit: I see no harm at all in this Bill, and am resolv'd to pass it.* How happy is the Province that has a Palatine of such singular Justice, Prudence and Humanity? And how unhappy is the Country that has lost a Minister endu'd



endu'd with so many great and excellent Qualitys? Well may both Church and State be thought to be in danger by the Memorialist, when so eminent a Patron of the Libertys of the one, and of the Religion of the other, shall have lost any share of his Credit and Preferments. Accordingly he sign'd the Bill that day, the Board consisting but of three of the Proprietors present, and two Proxys, which were lodg'd in his Excellency's Hands.

When no more notice is taken of the Application that is made to this Board by Numbers, nor any Redress given to publick Grievances, 'tis no wonder if *private Complaints* are entirely neglected. The Clergyman, who is Minister of *Charles-Town*, has this therefore to comfort himself withal, that his Case is not particular, tho the Proprietors have had no regard to the repeated Complaints that he has made to them, of the Insolencys offer'd him in the Streets, where his Gown was torn off his Back, and he whipt with a Horfewhip, and beaten and abus'd in a most barbarous manner by some of the most considerable of that Party, which his Excellency is resolv'd to head and countenance.

But tho neither the Palatine, nor the Majority of the Board of Proprietors have had any Relentings on the account of these oppress'd People; yet the *same Commons House* of Assembly, which pass'd this Act, have thought it to be so contrary to natural Equity, the Christian Religion, and the Doctrine of the Church of *England*, to be so great an Instance of Ingratitude to the Dissenters, and so highly injurious and destructive to their Libertys and Constitution, that a Bill to repeal the said Act past thro that House, about half a year after they had pass'd it. But it was lost in the Upper House, where every thing is carry'd according to the Inclinations of the Palatine, and those Proprietors, who give up themselves to be directed and influenc'd by him. And upon the Commons House passing the said repealing Bill, the Governor, in great Indignation, dissolv'd the said Commons House, by the name of the *Unsteady Assembly*.

This is a true and faithful Account, both of the State of *Carolina*, which occasion'd the passing this Act, and the deplorable Condition into which this Act has brought it. And as no body, who does not question his Excellency's Veracity, can imagine that he did not sincerely design to head and countenance nothing but a Faction in *Carolina*, when he declar'd he wou'd do so; so he has given no body since any Reason to think that he has alter'd his Resolutions. And it would therefore be the greatest Folly and Presumption imaginable, to hope for a Redress from his Excellency, or from those Proprietors



The Case of the Dissenters in Carolina.

who are influenc'd by him (and who make a Majority at that Board) of any Grievances, how publick soever, if they may but be for the private Advantages of that Party. And his Excellency, together with those Proprietors, making a Majority at that Board, gives this heavy Accent to all the Miserys of the People, and particularly of the Dissenters of that Province, That according to the present Frame of Government that obtains there, they are irremediable.

P. 1 N. 105.

The First CHARTER granted by King Charles II.  
to the Proprietors of Carolina.

CHARLES II. by the Grace of God, &c. To all to whom these Presents shall come, Greeting.

WHEREAS our Right Trusty and Right Well-beloved Cousins and Counsellors, *Edward*, Earl of *Clarendon*, our High-Chancellor of *England*; and *George*, Duke of *Albemarle*, Master of our Horse, and Captain-General of all our Forces; our Right Trusty and Well-beloved *William* Lord *Craven*, *John* Lord *Berkeley*; our Right Trusty and Well-beloved Counsellor, *Anthony* Lord *Ashley*, Chancellor of our Exchequer; *Sir George Carterett*, Kt. and Baronet, Vice-Chamberlain of our Household, and our Trusty and Well-beloved, *Sir William Berkeley*, Kt. and *Sir Peter Colleton*, Kt. and Baronet, being excited with a laudable and pious Zeal for the Propagation of the Christian Faith, and the Enlargement of our Empire and Dominions, have humbly besought Leave of us by their Industry and Charge, to transport and make an ample Colony of our Subjects, Natives of our Kingdom of *England*, and elsewhere within our Dominions, unto a certain Country, hereafter described, in the Parts of *America* not yet cultivated or planted, and only inhabited by some barbarous People, who have no Knowledge of Almighty God.

And whereas the said *Edward*, Earl of *Clarendon*; *George*, Duke of *Albemarle*; *William*, Lord *Craven*; *John*,

*Berkeley*; *Anthony*, Lord *Ashley*; *Sir George Carterett*, *Sir William Berkeley*, *Sir Peter Colleton*, have humbly besought us to give, grant and confirm unto them and their Heirs the said Country, with Privileges and Jurisdictions requisite for the good Government and Safety thereof. Know ye therefore, That We favouring the pious and noble Purpose of the said *Edward*, Earl of *Clarendon*; *George*, Duke of *Albemarle*; *William*, Lord *Craven*; *John*, Lord *Berkeley*; *Anthony*, Lord *Ashley*; *Sir George Carterett*, *Sir William Berkeley* and *Sir Peter Colleton*, of our special Grace, certain Knowledge and meer Motion, have given, granted and confirm'd, and by this our present Charter, for Us, our Heirs and Successors, do give, grant and confirm unto the said *Edward*, Earl of *Clarendon*; *George*, Duke of *Albemarle*; *William*, Lord *Craven*; *John*, Lord *Berkeley*; *Anthony*, Lord *Ashley*; *Sir George Carterett*, *Sir William Berkeley* and *Sir Peter Colleton*, their Heirs and Assigns, all that Territory, or Tract of Ground, situate, lying and being within our Dominions in *America*; extending from the North End of the Island, called *Lucke-Island*, which lieth in the Southern *Virginia* Seas, and within 36 Degrees of the Northern Latitude; and to the West as far as the South Seas; and so Southerly, as far as the River *St. Matthias*, which bordereth upon the Coast of *Florida*, and within one and thirty Degrees of Northern Latitude, and so West in

a direct Line, as far as the South Seas aforesaid; together with all and singular Ports, Harbours, Bays, Rivers, Isles and Islets, belonging unto the Country aforesaid, and also, all the Soil, Lands, Fields, Woods, Mountains, Ferns, Lakes, Rivers, Bays and Islets, scituate, or being within the Bounds or Limits aforesaid, with the fishing of all sorts of Fish, *Whales, Sturgeons*, and all other Royal Fishes in the Sea, Bays, Isles and Rivers, within these Premises, and the Fish therein taken. And moreover, all Vaines, Mines, Quarries, as well discover'd as not discover'd, of Gold, Silver, Gems, precious Stones, and all other whatsoever; be it of Stones, Metals or any other thing whatsoever, found, or to be found within the Countries, Isles and Limits aforesaid.

And furthermore, the Patronage and Avowsons of all the Churches and Chapels, which as Christian Religion shall increase within the Country, Isles, Islets and Limits aforesaid, shall happen hereafter to be erected; together with Licence and Power to build and found Churches, Chapels and Oratories in convenient and fit Places within the said Bounds and Limits; and to cause them to be dedicated and consecrated, according to the Ecclesiastical Laws of our Kingdom of *England*; together with all and singular, the like, and as ample Rights, Jurisdictions, Priviledges, Prerogatives, Royalties, Liberties, Immunities, and Franchises, of what kind soever, within the Countries Isles, Islets and Limits aforesaid,

To have, use, exercise and enjoy, and in as ample Manner as any Bishop of *Durham* in our Kingdom of *England*, ever heretofore have held, used or enjoyed, or of Right ought, or could have, use or enjoy; and them the said *Edward* Earl of *Claren-*

*don, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton*, their Heirs and Assigns. We do by these Presents, for us, our Heirs and Successors, make, create and constitute the true and absolute Lords and Proprietors of the Country aforesaid, and of all other the Premises, saving always the Faith, Allegiance, and Sovereign Dominion due to us, our Heirs and Successors, for the same; and saving also the Right, Title and Interest of all and every our Subjects of the *English* Nation, which are now planted within the Limits and Bounds aforesaid, (if any be:) To have, hold, possess, and enjoy the said Country, Isles, Islets, and all and singular, other the Premises to them, the said *Edward E. of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton*, their Heirs and Assigns for ever, to be holden of us, our Heirs and Successors, as of our Mannor of *East Greenwich*, in our County of *Kent*, in free and common Soccage, and not in *Capite*, nor by *Knights Service*, yeilding and paying yearly to us, our Heirs and Successors, for the same the Yearly Rent of Twenty Marks of Lawful Money of *England*, at the Feast of *All Saints*, Yearly forever. The first Payment thereof, to begin, and to be made on the Feast of *All Saints*, which shall be in the Year of our Lord One Thousand Six Hundred Sixty and Five, and also the fourth Part of all Gold and Silver Oar which within the Limits aforesaid, shall from time to time, happen to be found.

And that the Country thus by us granted and described, may be dignified



missed by us with as large Titles and Priviledges as any other Parts of our Dominions and Territories in that Region. Know ye, that we of our further Grace, certain Knowledge, and meer Motion, have thought fit to Erect the same Tract of Ground, Country and Island, into a Province, and out of the Fullness of our Royal Power and Prerogative; we do, for us, our Heirs and Successors, Erect, Incorporate and Ordain the same into a Province; and do call it the Province of *Carolina*: And so, from henceforth, will have it called. And forasmuch as we have hereby made, and ordained the aforesaid *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley* and *Sir Peter Colleton*, their Heirs and Assigns, the true Lords and Proprietors of all the Province aforesaid. Know ye therefore moreover, that we reposing Especial Trust and Confidence in their Fidelity, Wisdom, Justice and Provident Circumspection for us, our Heirs and Successors, do grant full and absolute Power by Virtue of these Presents, to them, the said *Edward Earl of Clarendon, George Duke of Albemarle, William L. Craven, John L. Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley* and *Sir Peter Colleton*, and their Heirs for the good and happy Government of the said Province, to Ordain, Make, Enact, and under their Seals to publish any Laws whatsoever, either appertaining to the publick State of the said Province, or to the private Utility of particular Persons, according to their best Discretion, of, and with the Advice, Assent and Approbation of the Freeman of the said Province, or of the greater Part of them, or of their Delegates or Depu-

ties, whom for enacting of the said Laws, when, and as often as need shall require, we will that the said *Edward E. of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley* and *Sir Peter Colleton* and their Heirs, shall from time to time, assemble in such Manner and Form as to them shall seem best, and the same Laws duly to execute upon all People within the said Province and Limits thereof, for the Time being, or which shall be constituted under the Power and Government of them, or, any of them, either sailing towards the said Province of *Carolina*, or, returning from thence towards *England*, or any other of our, or Foreign Dominions, by Imposition of Penalties, Imprisonment, or any other Penishment; yea, if it shall be needful, and the Quality of the Offence requires it, by taking away Member and Life, either by them the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley*, and *Sir Peter Colleton*, and their Heirs, or by them, or their Deputies, Lieutenants, Judges, Justices, Magistrates, Officers and Ministers, to be ordained, or appointed according to the Tenor and true Intention of these Presents; and likewise, to Appoint and Establish any Judges, or Justices, Magistrates, or Officers whatsoever, within the said Province, at Sea or Land, in such Manner and Form, as unto the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley*, and *Sir P. Colleton*, and their Heirs, shall seem most convenient. Also to Remit,

Release, Pardon, and Abolish, (whether before Judgment, or after) all Crimes and Offences whatsoever against the said Laws, and to do all and every other Thing and Things which unto the compleat Establishment of Justice unto Courts, Sessions and Forms of Judicature, and Manners of Proceedings therein, do belong, although in these Presents, express mention be not made thereof, and by Judges, and by him, or them delegated to award, process, hold Pleas, and determine in all the said Courts and Places of Judicature, all Actions, Suits and Causes whatsoever, as well Criminal as Civil, real, mixt, personal, or of any other Kind or Nature whatsoever; which Laws, so as aforesaid to be published, our Pleasure is, and we do require, enjoin and command, shall be Absolute, Firm and Available in Law, and that all the Leige People of us, our Heirs and Successors within the said Province of *Carolina*, do observe and keep the same inviolably, in those Parts, so far as they concern them, under the Pains and Penalties therein expressed, or to be expressed; provided nevertheless, that the said Laws be Consonant to Reason, and as near as may be, conveniently agreeable to the Laws and Customs of this our Kingdom of *England*.

And because such Assemblies of Free-holders cannot be so conveniently called, as there may be Occasion to require the same; we do therefore by these Presents, give and grant unto the said Earl of *Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony Lord Ashley*, *Sir George Cartwright*, *Sir William Berkeley*, and *Sir Peter Colleton*, their Heirs and Assigns, by themselves, or their Magistrates in that behalf lawfully authorized, full Power and Authority from time

to time, to make and ordain fit and wholesome Orders and Ordinances within the Province aforesaid, to be kept and observed, as well for the keeping of the Peace, as for the better Government of the People there abiding, and to publish the same to all to whom it may concern; which Ordinances we do by these Presents, streightly charge and command to be inviolably observed, within the said Province, under the Penalties therein expressed, so as such Ordinances be reasonable, and not repugnant, or contrary, but as near as may be, agreeable to the Laws and Statutes of this our Kingdom of *England*, and so as the same Ordinances do not extend to the binding, charging, or taking away of the Right or Interest of any Person or Persons, in their Freehold, Goods, or Chattels whatsoever.

And to the End the said Province may be the more happily increased by the Multitude of People resorting thither, and may likewise be the more strongly defended from the Incursions of Savages, and other Enemies, Pirates and Robbers; therefore, we for us, our Heirs and Successors do give and grant by these Presents, Power, License and Liberty unto all the Leige People of us, our Heirs and Successors in our Kingdom of *England*, or elsewhere within any other our Dominions, Islands, Colonies, or Plantations (excepting those who shall be especially forbidden) to Transport themselves and Families unto the said Province, with convenient shipping and fitting Provisions, and there to settle themselves, Dwell and Inhabit, any Law, Statute, Act, Ordinance, or other thing, to the contrary in any wise, notwithstanding: And we will also, and of our more special Grace for us, our Heirs and Successors do streightly

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Enjoyn, Ordain, Constitute and Command that the said Province of *Carolina* shall be of our Allegiance, and that all and singular the Subjects, and Liege People of us, our Heirs and Successors transported, or to be transported into the said Province, and the Children of them, and of such as shall Descend from them, there born, or hereafter to be born, be, and shall be, Denizens and Leiges of us, our Heirs and Successors of this our Kingdom of *England*, and be in all Things held, treated and reputed as the Liege faithful People of us, our Heirs and Successors, born within this our said Kingdom, or any other of our Dominions, and may inherit, or otherwise Purchase and receive, take, hold, buy and possess any Lands, Tenements, or Hereditaments, within the same Places, and them may occupy possess and enjoy, give, sell, alien, and bequeath; as likewise, all Liberties, Franchises and Privileges of this our Kingdom of *England* and of other our Dominions aforesaid, and may freely and quietly have, possess and enjoy as our Liege People born within the same, without the least Molestation, Vexation, Trouble or Grievance of us, our Heirs and Successors, any Statute, Act, Ordinance or Provision to the contrary notwithstanding.

And furthermore that our Subjects of this our said Kingdom of *England* and other our Dominions, may be the rather encouraged to undertake this Expedition with ready and chearful Minds; know ye, that we of our special Grace, certain Knowledge, and meer Motion, do give and grant, by virtue of these Presents, as well to the said *Edward Earl of Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony Lord Ashley*, *Sir George Carte-*

*rett*, *Sir William Berkeley*, and *Sir Peter Colleton*, and their Heirs, as unto all others as shall, from time to time, repair unto the said Province, with a Purpose to inhabit there, or to Trade with the Natives of the said Province, full Liberty and License to lade and freight in any Ports whatsoever, of us, our Heirs and Successors, and into the said Province of *Carolina*, by them, their Servants and Assigns, to transport all and singular their Goods, Wares, and Merchandizes; as likewise, all Sorts of Grain whatsoever, and any other Things whatsoever, necessary for the Food and Cloathing, not prohibited by the Laws and Statutes of our Kingdoms and Dominions, to be carry'd out of the same without any Lett or Molestation of us, our Heirs and Successors, or of any other of our Officers or Ministers whatsoever, saving also to us, our Heirs and Successors, the Customs, and other Duties and Payments, due for the said Wares and Merchandizes, according to the several Rates of the Places from whence the same shall be transported. We will also, and by these Presents, for us, our Heirs and Successors, do give and grant License by this our Charter, unto the said *Edward Earl of Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony L. Ashley*, *Sir George Carterett*, *Sir William Berkeley*, and *Sir Peter Colleton*, their Heirs and Assigns, and to all the Inhabitants and Dwellers in the Province aforesaid, both present and to come, full Power and absolute Authority to import or unlade by themselves, or their Servants, Factors or Assigns, all Merchandizes and Goods whatsoever, that shall arise of the Fruits and Commodities of the said Province, either by Land or by Sea, into any the Ports of us, our Heirs

and



and Successors, in our Kingdom of England, Scotland or Ireland, or otherwise to dispose of the said Goods in the said Ports; and if need be, within One Year next after the unlading, to lade the said Merchandizes and Goods again into the same, or other Ships, and to export the same into any other Countries, either of our Dominions, or foreign, being in Amity with us, our Heirs and Successors, so as they pay such Customs, Subsidies and other Duties for the same to us, our Heirs and Successors, as the rest of our Subjects of this our Kingdom, for the time being, shall be bound to pay, beyond which, we will not that the Inhabitants of the said Province of Carolina shall be any way charged.

Provided nevertheless, and our Will and Pleasure is, and we have further for the Considerations aforesaid, of our more especial Grace, certain Knowledge and meer Motion, given and granted, and by these Presents, for us, our Heirs and Successors, do give and grant unto the said Edward E. of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs and Assigns, full and free License, Liberty and Authority at any time, or times, from and after the Feast of St. Michael the Arch-Angel, which shall be in the Year of our Lord Christ, One Thousand Six Hundred, Sixty and Seven; as well to import, and bring into any of our Dominions, from the said Province of Carolina, or any Part thereof, the several Goods and Commodities herein after mentioned; that is to say, Silks, Wines, Currants, Raisons, Capers, Wax, Almonds, Oyl and Olives, without paying or answering to us, our Heirs or Successors, any

Custom, Impost or other Duty, for or in respect thereof, for and during the Term and Space of Seven Years, to commence and be accounted from and after the first Importation of Four Tons of any the said Goods in any one Bottom, Ship or Vessel, from the said Province, into any of our Dominions; as also, to export and carry out of any of our Dominions into the said Province of Carolina, Custom-free, all sorts of Tools which shall be useful or necessary for the Planters there, in the Accommodation and Improvement of the Premises, any thing before in these Presents contained, or any Law, Act, Statute, Prohibition, or other Matter or Thing heretofore had, made, enacted or provided or hereafter to be had, made, enacted, or provided to the contrary in any wise notwithstanding.

And furthermore, of our more ample and especial Grace, certain Knowledge and meer Motion, we do for us, our Heirs and Successors grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs and Assigns, full and absolute Power and Authority to make, erect and constitute within the said Province of Carolina, and the Isles and Islets aforesaid, such and so many Sea-Ports, Harbours, Creeks and other Places, for discharge and unlading of Goods and Merchandizes out of Ships, Boats and other Vessels, and for lading of them in such and so many Places, and with such Jurisdictions, Privileges and Franchises, unto the said Ports belonging, as to them shall seem most expedient; and that all and singular, the Ships, Boats and other Vessels, which shall come for  
Mer-

Merchandizes, and trade into the said Province, or shall depart out of the same, shall be laden and unladed at such Ports only as shall be erected and constituted by the said *Edward Earl of Clarendon, George Duke of Albemarle, William L. Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton*, their Heirs and Assigns, and not elsewhere any use, Custom, or any thing to the contrary in any wise notwithstanding.

And we do furthermore will, appoint and ordain by these Presents, and for us, our Heirs and Successors, do grant unto the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony L. Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton*, their Heirs and Assigns, That they the said *Edward E. of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton*, their Heirs and Assigns, may from time to time, for ever, have and enjoy the Customs and Subsidies in the Ports, Harbours, Creeks and other Places within the Province aforesaid, payable for Goods, Merchandizes and Wares there laded, or to be laded or unladed, the said Customs to be reasonable assessed upon any Occasion by themselves, and by and with the Consent of the free People there, or the greater Part of them, as aforesaid; to whom we give Power by these Presents, for us, our Heirs and Successors upon just Cause, and in a due Proportion to assess and impose the same.

And further, of our especial Grace, certain Knowledge and meer Motion, we have given, granted and confirmed, and by these Presents, for us, our Heirs and Successors, do give,

grant and confirm unto the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley, and Sir Peter Colleton*, their Heirs and Assigns, full and absolute License, Power and Authority, that the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley, and Sir P. Colleton*, their Heirs and Assigns, from time to time, hereafter for ever, at his and their Will and Pleasure, may assign, alien, grant, demise or enfeoff the Premises or any Parts or Parcels thereof to him or them, that shall be willing to purchase the same; and to such Person or Persons, as they shall think fit, to have, and to hold to them the said Person or Persons, their Heirs and Assigns in Fee-simple or Fee-tayle, or for Term of Life or Lives, or Years to be held of them, the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley, and Sir Peter Colleton*, their Heirs and Assigns, by such Rents, Services and Customs, as shall seem meet to the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley, and Sir Peter Colleton*, their Heirs and Assigns, and not immediately of us, our Heirs and Successors: And to the same Person and Persons, and to all and every of them, we do give and grant by these Presents, for us, our Heirs and Successors, License, Authority and Power, that such Person or Persons, may have or take the Premises, or any Parcel thereof, of the said *Edward Earl*



Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs or Assigns, and the same to hold to themselves, their Heirs or Assigns, in what Estate of Inheritance whatsoever, in Fee-simple, or in Fee-tayle, or otherwise, as to them and the said Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs and Assigns, shall seem expedient. The Statute made in the Parliament of Edward, Son of King Henry, heretofore King of England, our Predecessor, commonly called, the Statute of *Quia Emptores Terræ*, or any other Statute, Act, Ordinance, Use, Law, Custom, or any other Matter, Cause or Thing heretofore published or provided to the contrary in any wise notwithstanding.

And because many Persons born or inhabiting in the said Province, for their Deserts and Services may expect, and be capable of Marks of Honour and Favour, which in respect of the great Distance cannot conveniently be conferred by us; our Will and Pleasure therefore is, and we do by these Presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs and Assigns, full Power and Authority to give and confer unto, and upon such of the Inhabitants of the said Province, as they shall think, do or shall merit the same, such Marks of Favour, and Titles of Honour, as they shall think fit, so as these Titles of Honour be not the same as are en-

joyed by, or conferred upon any the Subjects of this our Kingdom of England.

And further also, we do by these Presents, for us, our Heirs and Successors, give and Grant License to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir Peter Colleton, their Heirs and Assigns, full Power, Liberty and License to erect, raise and build within the said Province and Places aforesaid, or any Part or Parts thereof, such and so many Forts, Fortresses, Castles, Cities, Boroughs, Towns, Villages, and other Fortifications whatsoever; and the same or any of them to fortify and furnish with Ordnance, Powder, Shot, Armory, and all other Weapons, Ammunition, Habilliments of War, both Offensive and Defensive, as shall be thought fit and convenient for the Safety and Welfare of the said Province, and Places, or any part thereof; and the same, or any of them, from time to time, as Occasion shall require, to Dismantle, Disfurnish, Demolish and pull down, and also to Place, Constitute and Appoint in, or over all, or any of the said Castles, Forts, Fortifications, Cities, Towns and Places aforesaid, Governours, Deputy Governours, Magistrates, Sheriffs, and other Officers, Civil and Military, as to them shall seem meet; and to the said Cities, Burroughs, Towns, Villages, or any other Place, or Places, within the said Province, to grant Letters or Charters of Incorporation, with all Liberties, Franchises, and Privileges requisite, and usual, or to, or within any Corporations within this our Kingdom of England granted, or belonging; and in the same Cities, Burroughs, Towns and other Places, to

Constit-



Constitute, Erect and Appoint such, and so many Markets, Marts and Fairs, as shall in that behalf be thought fit and necessary; and further also, to erect and make in the Province aforesaid, or any Part thereof, so many Mannors as to them shall seem meet and convenient, and in every of the same Mannors to have and to hold a Court-Baron with all Things whatsoever, which do a Court-Baron do belong, and to have and to hold Views of Franck Pledge and Court-Leet for the Conservation of the Peace, and better Government of those Parts, within such Limits, Jurisdictions and Precincts, as by the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir John Colleton*, or their Heirs, shall be appointed for that purpose, with all Things whatsoever, which to a Court-Leet, or view of Franck Pledge do belong; the said Court to be holden by Stewards, to be deputed and authorized by the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir John Colleton*, or their Heirs, or by the Lords of other Mannors and Leets for the Time being, when the same shall be erected.

And because that in so remote a Country, and Scituate among so many Barbarous Nations, and the Invasions as well of Savages as other Enemies; Pirates and Robbers may probably be feared; therefore we have given, and for us, our Heirs and Successors do give Power by these Presents, unto the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John L. Berkeley, Anthony Lord Ashley, Sir*

*George Carterett, Sir William Berkeley and Sir John Colleton*, their Heirs and Assigns by themselves or their Captains, or other their Officers to Levy, Muster and Train all Sorts of Men, of what Condition, or where-soever born, in the said Province, for the time being; and to make War and pursue the Enemies aforesaid, as well by Sea, as by Land; yea, even within the Limits of the said Province, and by God's Assistance, to vanquish and take them, and being taken, to put them to Death by the Law of War, or to save them at their Pleasure; and to do all and every other thing, which unto the Charge and Office of a Captain-General of an Army, belongeth, or hath accustomed to belong, as fully and freely as any Captain-General of an Army hath ever had the same.

Also, our Will and Pleasure is, and by this our Charter, we give unto the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir J. Colleton*, their Heirs and Assigns, full Power, Liberty and Authority in Case of Rebellion, Tumult, or Sedition (if any should happen,) which God forbid, either upon the Land within the Province aforesaid or upon the main Sea, in making a Voyage thither, or returning from thence, by him and themselves, their Captains, Deputies or Officers, to be authorized under his or their Seals, for that Purpose: To whom also for us, our Heirs and Successors, We do give and grant by these Presents. full Power and Authority to exercise Martial Law against mutinous and seditious Persons of those Parts, such as shall refuse to submit themselves to their Government, or shall refuse to serve in the Wars, or shall fly to the Ene-

my, or forsake their Colours or Ensigns, or be Loyterers or Straglers, or otherwise howsoever offending against Law, Custom or Discipline Military, as freely, and in as ample Manner and Form as any Captain General of an Army, by virtue of his Office, might, or hath accustomed to use the same.

And Our further Pleasure is, and by these Presents, for Us, our Heirs and Successors, We do grant unto the said Earl of *Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony Lord Ashley*, *Sir George Carterett*, *Sir William Berkeley* and *Sir John Colleton*, their Heirs and Assigns, and to the Tenants and Inhabitants of the said Province of *Carolina*, both present and to come, and to every of them, that the said Province and the Tenants and Inhabitants thereof, shall not from henceforth, be held or reputed a Member, or Part of any Colony whatsoever, in *America* or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their Government in any Thing, but be absolutely separated and divided from the same: And our Pleasure is, by these Presents, That they be separated, and that they be subject immediately to our Crown of *England*, as depending thereof for ever. And that the Inhabitants of the said Province, or any of them, shall at any time hereafter, be compelled or compellable, or be any ways subject, or liable to appear or answer to any Matter, Suit, Cause, or Complaint whatsoever, out of the Province aforesaid, in any other of our Islands, Colonies or Dominions in *America* or elsewhere, other than in our Realm of *England* and Dominion of *Wales*.

And because it may happen, That some of the People and Inhabitants of

the said Province, cannot in their private Opinions conform to the Publick Exercise of Religion according to the Liturgy, Form and Ceremonies of the Church of *England*, or take and subscribe the Oaths and Articles made and established in that behalf: And for that the same, by reason of the remote Distances of these Places will we hope, be no Breach of the Unity, and Uniformity, Established in this Nation. Our Will and Pleasure therefore is, and We do by these Presents for Us, Our Heirs and Successors, give and grant unto the said *Edward Earl of Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony Lord Ashley*, *Sir George Carterett*, *Sir William Berkeley*, and *Sir John Colleton*, their Heirs and Assigns, full and free License, Liberty and Authority, by such Legal Ways and Means as they shall think fit to Give and Grant unto such Person and Persons Inhabiting, and being within the said Province, or any Part thereof, who really in their Judgments, and for Conscience sake, cannot, or shall not Conform to the said Liturgy and Ceremonies, and take and subscribe the Oaths and Articles aforesaid, or any of them, such Indulgences and Dispensations, in that behalf, for and during such time and times, and with such Limitations and Restrictions as they the said *Edward Earl of Clarendon*, *George Duke of Albemarle*, *William Lord Craven*, *John Lord Berkeley*, *Anthony Lord Ashley*, *Sir George Carterett*, *Sir William Berkeley* and *Sir John Colleton*, their Heirs, or Assigns, shall in their Discretion think fit, and reasonable, and with this expresse Proviso and Limitation also, that such Person or Persons, to whom such Indulgences and Dispensations shall be granted as aforesaid do, and shall from time to time, declare and continue all Fidelity, Loyalty and



Obedience to Us; our Heirs and Successors, and be Subject and Obedient to all other the Laws, Ordinances and Constitutions of the said Province, in all Matters whatsoever, as well Ecclesiastical as Civil, and do not in any wise Disturb the Peace and Safety thereof, or Scandalize, or Reproach the said Liturgy, Forms and Ceremonies, or any Thing relating thereunto, or any Person or Persons whatsoever, for, or in respect of his, or their Use, or Exercise thereof, or his, or their Obedience, or Conformity thereunto.

And in Case it shall happen, That any Doubts or Questions should arise concerning the True Sence and Understanding of any Word, Clause or Sentence, contained in this our Present Charter, We Will, Ordain and Command, that at all Times, and in all Things, such Interpretation be made thereof, and allow'd in all and every of Our Courts whatsoever, as Lawfully may be Adjudged most Advantageous and Favourable to the said *Edward Earl of Clarendon, George Duke Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley and Sir John Colleton*, their

Heirs and Assigns, although Express Mention be not made in these Presents, of the True Yearly Value and Certainty of the Premises, or any part thereof, or of any other Gifts and Grants made by Us, our Ancestors, or Predecessors, to them the said *Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carterett, Sir William Berkeley, and Sir John Colleton*, or any other Person, or Persons whatsoever, or any Statute, Act, Ordinance, Provision, Proclamation, or Restraint heretofore Had, Made, Published, Ordained, or Provided, or any other Thing, Cause, or Matter whatsoever, to the contrary thereof, in any Wise Notwithstanding.

*In Witness, &c. Witness the King, at Westminster, the 24th Day of March, in the 15th Year of Our Reign.*

Per ipsum Regem.

The Second Charter is *Verbatim* by the First, only enlarging the Bounds; it was granted to the same Grantees with the Former, and is dated the 30th of June, 17 Car. II.



## The Fundamental Constitutions of Carolina.

OUR Sovereign Lord the King having out of his Royal Grace and Bounty, granted unto us the Province of *Carolina*, with all the Royalties, Proprieties, Jurisdictions and Privileges of a *County Palatine*, as large and ample as the County Palatine of *Durham*, with other great Privileges; for the better Settlement of the Government of the said Place, and establishing the Interest of the Lords Proprietors with Equality, and without Confusion, and that the Government of this Province may be made most agreeable to the Monarchy under which we live, and of which this Province is a Part; and that We may avoid erecting a numerous *Democracy*, we the *Lords and Proprietors* of the Province aforesaid, have agreed to this following Form of *Government*, to be perpetually established amongst us, unto which we do oblige our selves, our Heirs and Successors, in the most binding Ways that can be devised.

§. 1. THE Eldest of the Lords Proprietors shall be *Palatine*, and upon the Decease of the *Palatine*, the Eldest of the Seven surviving Proprietors shall always succeed him.

§. 2. There shall be Seven other Chief Offices erected, viz. The Admirals, Chamberlains, Chancellors, Constables, Chief-Justices, High-Stewards and Treasurers; which Places shall be enjoy'd by none but the Lords Proprietors, to be assign'd at first by Lot, and upon the Vacancy of any one of the Seven Great Offices by Death, or otherwise, the Eldest Proprietor shall have his Choice of the said Place.

§. 3. The whole Province shall be divided into Counties; each County shall consist of Eight Signiories, Eight Baronies, and Four Precincts; each Precinct shall consist of Six Colonies.

§. 4. Each Signiory, Barony and Colony, shall consist of Twelve Thousand Acres, the Eight Signiories being the Share of the Eight Proprietors, and the Eight Baroni s

of the Nobility, both which Shares being each of them one Fifth part of the Whole, are to be perpetually annex'd the one to Proprietors, the other to the Hereditary Nobility, leaving the Colonies, being Three Fifths, amongst the People; that so in setting out, and planting the Lands, the Balance of the Government may be preserved.

§. 5. At any Time before the Year One Thousand Seven Hundred and One, any of the Lords Proprietors shall have Power to relinquish, alienate, and dispose to any other Person, his Proprietorship, and all the Signiories, Powers, and Interest thereunto belonging, wholly and entirely together, and not otherwise. But after the Year One Thousand Seven Hundred, those who are then Lords Proprietors, shall not have Power to Alienate, or Make over their Proprietorship, with the Signiories and Privileges thereunto belonging, or any part thereof, to any Person whatsoever, otherwise than as in §. 18. but it shall all descend unto their Heirs Male; and for want of Heirs Male, it shall all descend on that Landgrave or Cassique of Carolina, who is descended of the next Heirs Female of the said Proprietor; and for want of such Heirs, it shall descend on the next Heir general; and for want of such Heirs, the remaining Seven Proprietors, shall upon the Vacancy, chuse a Landgrave to succeed the deceased Proprietor, who being chosen by the Majority of the Seven surviving Proprietors, he and his Heirs successively shall be Proprietors, as fully to all Intents and Purposes as any of the Rest.

§. 6. That the Number of Eight Proprietors may be constantly kept; if upon the Vacancy of any Proprietorship, the Seven surviving Proprietors shall not chuse a Landgrave to be a Proprietor, before the Second biennial Parliament after the Vacancy; then the next biennial Parliament but one, after such Vacancy, shall have Power to chuse any Landgrave to be Proprietor.

§. 7.

§. 7. Whosoever after the Year One Thousand Seven Hundred, either by Inheritance or Choice, shall succeed any *Proprietor* in his *Proprietorship*, and *Signories* thereunto belonging, shall be obliged to take the *Name* and *Arms* of that *Proprietor* whom he succeeds; which from thenceforth shall be the *Name* and *Arms* of his Family and their Posterity.

§. 8. Whatsoever *Landgrave* or *Cassique* shall any way come to be a *Proprietor*, shall take the *Signories* annex'd to the said *Proprietorship*; but his former *Dignity*, with the *Baronies* annex'd, shall devolve into the Hands of the *Lords Proprietors*.

§. 9. There shall be just as many *Landgraves* as there are *Counties*, and twice as many *Cassiques*, and no more. These shall be the Hereditary *Nobility* of the Province, and by Right of their *Dignity* be Members of *Parliament*. Each *Landgrave* shall have Four *Baronies*, and each *Cassique* Two *Baronies*, hereditarily and undividedly annexed to, and settled upon the said *Dignity*.

§. 10. The first *Landgrave* and *Cassiques* of the Twelve first *Counties* to be planted, shall be nominated thus; that is to say, of the Twelve *Landgraves*, the *Lords Proprietors* shall each of them separately for himself, nominate and chuse one; and the remaining Four *Landgraves* of the first Twelve, shall be nominated and chosen by the *Palatine's Court*. In like manner of the Twenty Four first *Cassiques*, each *Proprietor* for himself shall nominate and chuse Two, and the remaining Eight shall be nominated and chosen by the *Palatine's Court*; and when the Twelve first *Counties* shall be planted, the *Lords Proprietors* shall again in the same Manner nominate and chuse Eight more *Landgraves*, and Sixteen *Cassiques* for the Twelve next *Counties* to be planted; that is to say, Two Thirds of each Number by the single *Nomination* of each *Proprietor* for himself, and the remaining One Third by the joint *Election* of the *Palatine's Court*, and so proceed in the same Manner till the whole *Province of Carolina* be set out and planted, according to the Proportions in these *Fundamental Constitutions*.

§. 11. Any *Landgrave* or *Cassique* at a-

ny time before the Year One Thousand Seven Hundred and One, shall have Power to alienate, sell, or make over to any other Person, his *Dignity*, with the *Baronies* thereunto belonging, all entirely together. But after the Year one Thousand Seven Hundred, no *Landgrave* or *Cassique* shall have Power to alienate, sell, make over, or lett the Hereditary *Baronies* of his *Dignity*, or any Part thereof, otherwise than as in §. 18. but they shall all entirely, with the *Dignity* thereunto belonging, descend unto his *Heirs Male*; and for want of *Heirs Male*, all entirely and undivided, to the next *Heir general*; and for want of such *Heirs*, shall devolve into the Hands of the *Lords Proprietors*.

§. 12. That the due Number of *Landgraves* and *Cassiques* may be always kept up; if upon the *Devolution* of any *Landgrave* or *Cassique*, the *Palatine's Court* shall not settle the devolved *Dignity*, with the *Baronies* thereunto annexed, before the Second biennial *Parliament* after such *Devolution*, the next biennial *Parliament* but one after such *Devolution* shall have Power to make any one *Landgrave* or *Cassique* in the Room of him, who dying without *Heirs*, his *Dignity* and *Baronies* devolved.

§. 13. No one Person shall have more than one *Dignity*, with the *Signories* or *Baronies* thereunto belonging. But whosoever it shall happen, that any one who is already *Proprietor*, *Landgrave*, or *Cassique*, shall have any of these *Dignities* descend to him by Inheritance; it shall be at his *Choice* to keep which of the *Dignities*, with the Lands annexed, he shall like best; but shall leave the other, with the Lands annexed, to be enjoyed by him, who not being his *Heir Apparent*, and certain Successor to his present *Dignity*, is next of Blood.

§. 14. Whosoever by Right of Inheritance shall come to be *Landgrave* or *Cassique*, shall take the *Name* and *Arms* of his Predecessor in that *Dignity*, to be from thenceforth the *Name* and *Arms* of his Family and their Posterity.

§. 15. Since the *Dignity*, of *Proprietor*, *Landgrave*, or *Cassique*, cannot be divided, and the *Signories* or *Baronies* thereunto annexed must for ever all entirely descend  
with



with, and accompany that *Dignity*, whensoever for want of Heirs Male it shall descend on the Issue Female, the *Eldest Daughter* and Heirs shall be preferred, and in the Inheritance of those *Dignities*, and in the *Signiories* or *Baronies* annexed, there shall be no *Co heirs*.

§. 16. In every *Signiory*, *Barony*, and *Mannor*, the respective Lord shall have Power in his own Name to hold *Court-Leet* there, for Trying of all Causes both Civil and Criminal; but where it shall concern any Person being no *Inhabitant*, or *Leetman* of the said *Signiory*, *Barony*, or *Mannor*, he upon paying down Forty Shillings to the *Lords Proprietors* use, shall have an *Appeal* from the *Signiory* or *Barony Court*, to the *County Court*, and from the *Mannor Court* to the *Precinct Court*.

§. 17. Every *Mannor* shall consist of not less than *Three Thousand Acres*, and not above *Twelve Thousand Acres* in one entire Piece and Colony; but any *Three Thousand Acres* or more in one Piece, and the Possession of one Man, shall not be a *Mannor*, unless it be constituted a *Mannor* by the Grant of the *Palatine's Court*.

§. 18. The *Lords of Signiories* and *Baronies* shall have Power only of granting Estates not exceeding *Three Lives*, or *Thirty One Years*, in *Two Thirds* of the said *Signiories* or *Baronies*, and the remaining Third shall be always *Demefne*.

§. 19. Any Lord of a *Mannor* may alienate, sell, or dispose to any other Person, and his Heirs for ever, his *Mannor*, all entirely together, with all the Privileges and *Leet-men* thereunto belonging, so far forth as any other *Colony Lands*, but no Grant of any part thereof, either in Fee, or for any longer Term than *Three Lives*, or *One and Twenty Years*, shall be good against the next Heir.

§. 20. No *Mannor*, for want of Issue Male shall be divided amongst *Co-heirs*; but the *Mannor*, if there be but one, shall all entirely descend to the eldest Daughter and her Heirs. If there be more *Mannors* than one, the eldest Daughter first shall have her *Choice*, the Second next, and so on; beginning again at the *Eldest*, till all the *Mannors* be taken up; that so the Privileges which belong to *Mannors* being

indivisible, the Lands of the *Mannors* to which they are annexed, may be kept entire, and the *Mannor* not lose those Privileges, which upon parcelling out to several Owners, must necessarily cease.

§. 21. Every Lord of a *Mannor*, within his *Mannor*, shall have all the Powers, Jurisdictions, and Privileges, which a *Landgrave* or *Cassique* hath in his *Baronies*.

§. 22. In every *Signiory*, *Barony*, and *Mannor*, all the *Leet-Men* shall be under the Jurisdiction of the respective *Lords* of the said *Signiory*, *Barony*, or *Mannor*, without Appeal from him. Nor shall any *Leet-Man* or *Leet-Woman* have Liberty to go off from the Land of their particular Lord; and live any where else, without License obtained from their said Lord, under Hand and Seal.

§. 23. All the Children of *Leet-Men* shall be *Leet-Men*, and so to all Generations.

§. 24. No Man shall be capable of having a *Court-Leet* or *Leet-Men*, but a *Proprietor*, *Landgrave*, *Cassique*, or *Lord of a Mannor*.

§. 25. Whoever shall voluntarily enter himself a *Leet-Man* in the Registry of the *County Court*, shall be a *Leet-Man*.

§. 26. Whoever is Lord of *Leet-Men*, shall upon the Marriage of a *Leet Man* or *Leet-Woman* of his, give them Ten Acres of Land for their Lives, they paying to him therefore not more than one Eighth part of all the Yearly Produce and Growth of the said Ten Acres.

§. 27. No *Landgrave* or *Cassique* shall be try'd for any Criminal Cause, in any but the *Chief-Justice's Court*, and that by a Jury of his Peers.

§. 28. There shall be *Eight Supreme Courts*. The first called, *The Palatine's Court*, consisting of the *Palatine*, and the other Seven *Proprietors*. The other Seven Courts of the other Seven great Officers, shall consist each of them of a *Proprietor*, and Six *Councillors* added to him. Under each of these latter Seven Courts shall be a *College* of Twelve *Assistants*. The Twelve *Assistants* of the several *Colleges* shall be chosen; Two out of the *Landgraves*, *Cassiques*, or eldest Sons of *Proprietors*, by the *Palatine's Court*; Two out of the *Landgraves*, by the *Landgraves Chamber*; Two out



out of the *Cassiques*, by the *Cassiques Chamber*; Four more of the Twelve shall be chosen by the *Commons Chamber*, out of such as have been, or are *Members of Parliament*, *Sheriffs*, or *Justices of the County Court*, or the younger Sons of *Proprietors*, or eldest Sons of *Landgraves* or *Cassiques*; the Two other shall be chosen by the *Palatine's Court*, out of the same Sort of Persons out of which the *Commons Chamber* is to chuse.

§. 29. Out of these *Colleges* shall be chosen at first by the *Palatine's Court*, Six *Councillors*, to be joined with each *Proprietor* in his Court; of which Six, one shall be of those who were chosen into any of the *Colleges* by the *Palatine's Court*, out of the *Landgraves*, *Cassiques*, or eldest Sons of *Proprietors*, one out of those who were chosen by the *Landgraves Chamber*, and one out of those who were chosen by the *Cassiques Chamber*, Two out of those who were chosen by the *Commons Chamber*, and one out of those who were chosen by the *Palatine's Court*, out of the *Proprietors* younger Sons, or eldest Sons of *Landgraves*, *Cassiques*, or *Commons*, qualified as afore-said.

§. 30. When it shall happen, that any *Councillor* dies, and thereby there is a Vacancy, the *Grand Council* shall have Power to remove any *Councillor* that is willing to be removed out of any of the *Proprietors Courts* to fill up the Vacancy, provided they take a Man of the same Degree and Choice the other was of, whose vacant Place is to be filled up. But if no *Councillor* consent to be removed, or upon such remove, the last remaining vacant Place in any of the *Proprietors Courts*, shall be filled up by the Choice of the *Grand Council*, who shall have Power to remove out of any of the *Colleges*, any Assistant, who is of the same Degree and Choice that *Councillor* was of, into whose vacant Place he is to succeed. The *Grand Council* also shall have Power to remove any Assistant that is willing, out of one College into another, provided he be of the same Degree and Choice. But the last remaining vacant Place in any College, shall be filled up by the same Choice, and out of the same Degree of Persons the Assistant was of, who is dead or removed. No

Place shall be vacant in any *Proprietors Court* above Six Months. No Place shall be vacant in any College longer than the next Session of *Parliament*.

§ 31. No Man, being a Member of the *Grand Council*, or of any of the Seven *Colleges*, shall be turned out but for Misdemeanour, of which, the *Grand Council* shall be Judge, and the Vacancy of the Person so put out shall be filled, not by the Election of the *Grand Council*, but by those who first chose him, and out of the same Degree he was of, who is expelled. But it is not hereby to be understood, that the *Grand Council* hath any Power to turn out any One of the *Lords Proprietors*, or their *Deputies*, the *Lords Proprietors* having in themselves an inherent original Right.

§ 32. All Elections in the *Parliament*, in the several *Chambers* of the *Parliament*, and in the *Grand Council*, shall be passed by Balotting.

§. 33. The *Palatine's Court* shall consist of the *Palatine*, and Seven *Proprietors*, wherein nothing shall be acted without the Presence and Consent of the *Palatine* or his *Deputy*, and Three others of the *Proprietors* or their *Deputies*. This Court shall have Power to call *Parliaments*, to pardon all Offences, to make Elections of all Officers in the *Proprietors* dispose, and to nominate and appoint *Port-Towns*: And also shall have Power, by their Order to the *Treasurer*, to dispose of all publick *Treasure*, excepting Money granted by the *Parliaments*, and by them directed to some particular publick Use: And also shall have a *Negative* upon all Acts, Orders, Votes, and Judgments, of the *Grand Council* and the *Parliament*, except only as in § 6. and 12. And shall have all the Powers granted to the *Lords Proprietors*, by their *Parent* from Our *Sovereign Lord the King*, except in such Things as are limited by these *Fundamental Constitutions*.

§. 34. The *Palatine* himself, when he in Person shall be either in the *Army*, or in any of the *Proprietors Courts*, shall then have the Power of *General*, or of that *Proprietor* in whose Court he is then present, and the *Proprietor*, in whose Court the *Palatine* then presides, shall during

his Presence there be but as one of the Council.

§. 35. The *Chancellor's Court*, consisting of one of the *Proprietors* and his Six *Councillors*, who shall be called *Vice Chancellors*, shall have the Custody of the *Seal* of the *Palatinate*, under which all *Charters* of *Lands* or otherwise, *Commissions* and *Grants* of the *Palatine's Court*, shall pass. And it shall not be lawful to put the *Seal* of the *Palatinate* to any *Writing* which is not signed by the *Palatine*, or his *Deputy*, and Three other *Proprietors*, or their *Deputies*. To this Court also belongs all *State-Matters*, *Dispatches* and *Treaties* with the *Neighbour Indians*. To this Court also belongs all *Invasions* of the *Law*, of *Liberty of Conscience*, and all *Disturbances* of public Peace upon *Presence of Religion*, as also the *Licence of Printing*. The *Twelve Assistants* belonging to this Court shall be called *Recorders*.

§. 36. Whatever passes under the *Seal* of the *Palatinats*, shall be register'd in that *Proprietor's Court* to which the Matter therein contained belongs.

§. 37. The *Chancellor* or his *Deputy* shall be always *Speaker* in *Parliament*, and *President* of the *Grand Council*, and in his and his *Deputy's* Absence, one of his *Vice-Chancellors*.

§. 38. The *Chief-Justice's Court*, consisting of one of the *Proprietors* and his Six *Councillors*, who shall be called *Justices of the Bench*, shall judge all *Appeals* in Cases both *Civil* and *Criminal*, except all such Cases as shall be under the *Jurisdiction* and *Cognizance* of any other of the *Proprietors Courts*, which shall be tried in those Courts respectively. The *Government* and *Regulation* of the *Registries* of *Writings* and *Contracts*, shall belong to the *Jurisdiction* of this Court. The *Twelve Assistants* of this Court shall be called *Masters*.

§. 39. The *Constables Court*, consisting of one of the *Proprietors* and Six *Councillors*, who shall be called *Marshals*, shall order and determine of all *Military Affairs* by *Land*, and all *Land Forces*, *Arms*, *Ammunition*, *Artillery*, *Garrisons* and *Fortes*, &c. and whatever belongs unto *War*. His *Twelve Assistants* shall be called *Lieutenant-Generals*.

§. 40. In *Time of actual War*, the *Constable*, whilst he is in the *Army*, shall be *General* of the *Army*, and the Six *Councillors*, or such of them as the *Palatine's Court* shall for that time or *Service* appoint, shall be the immediate great *Officers* under him, and the *Lieutenant-Generals* next to them.

§. 41. The *Admiral's Court*, consisting of one of the *Proprietors* and his Six *Councillors* called *Consuls*, shall have the *Care* and *Inspection* over all *Ports*, *Moles*, and *Navigable Rivers*, so far as the *Tide* flows, and also all the *publick Shipping* of *Carolina*, and *Stores* thereunto belonging, and all *Maritime Affairs*. This Court also shall have the *Power* of the *Court of Admiralty*; and shall have *Power* to constitute *Judges* in *Port-Towns*, to try *Cases* belonging to *Law-Merchant*, as shall be most convenient for *Trade*. The *Twelve Assistants* belonging to this Court shall be called *Pro Consuls*.

§. 42. In *time of actual War*, the *Admiral* whilst he is at *Sea*, shall command in *Chief*, and his Six *Councillors*, or such of them at the *Palatine's Court* shall for that *Time* and *Service* appoint, shall be the immediate great *Officers* under him, and the *Pro-Consuls* next to them.

§. 43. The *Treasurer's Court*, consisting of a *Proprietor*, and his Six *Councillors*, called *Under-Treasurers*, shall take *Care* of all *Matters* that concern the *publick Revenue* and *Treasury*. The *Twelve Assistants* shall be called *Auditors*.

§. 44. The *High-Stewards Court*, consisting of a *Proprietor* and his Six *Councillors*, called *Comptrollers*, shall have the *Care* of all *Foreign* and *Domestick Trade*, *Manufactures*, *publick Buildings*, *Work-Houses*, *High-ways*, *Passages* by *Water* above the *Flood* of the *Tide*, *Drains*, *Sewers*, and *Banks* against *Inundations*, *Bridges*, *Posts*, *Carriers*, *Fairs*, *Markets*, *Corruption* or *Infection* of the common *Air* or *Water*, and all *Things* in order to the *publick Commerce* and *Health*; Also setting out and *Surveying* of *Lands*; and also setting out and appointing *Places* for *Towns* to be built in the *Precincts*, and the *prescribing* and *determining* the *Figure* and *Signels* of the said *Towns*, according to such *Models* as the said Court shall order,



contrary or differing from which Models, it shall not be lawful for any one to build in any Town. This Court shall have Power also to make any publick Building, or any new High-way, or enlarge any old High way, upon any Man's Land whatsoever; as also to make Cuts, Channels, Banks, Locks, and Bridges, for making Rivers Navigable, or for draining Fens, or any other publick use. The Damage the Owner of such Lands (on or through which any such publick thing shall be made) shall receive thereby, shall be valued, and Satisfaction made by such Ways as the Grand Council shall appoint. The Twelve Assistants belonging to this Court, shall be called Surveyors.

§. 45. The Chamberlain's Court, consisting of a Proprietor and his Six Councillors, called Vice-Chamberlains, shall have the Care of all Ceremonies, Precedency, Heraldry, Reception of publick Messengers, Pedegrees, the Registry of all Births, Burials, and Marriages, Legitimation, and all Cases concerning Matrimony, or arising from it; and shall also have Power to regulate all Fashions, Habits, Badges, Games, and Sports. To this Court also it shall belong, to convocate the Grand Council. The Twelve Assistants belonging to this Court, shall be called Provosts.

§. 46. All Causes belonging to, or under the Jurisdiction of any of the Proprietors Courts, shall in them respectively betry'd, and ultimately determined, without any farther Appeal.

§. 47. The Proprietors Courts, shall have a Power to mitigate all Fines, and suspend all Executions in Criminal Causes, either before or after Sentence in any of the other inferior Courts respectively.

§. 48. In all Debates, Hearings or Trials, in any of the Proprietors Courts, the Twelve Assistants belonging to the said Courts respectively, shall have Liberty to be present, but shall not interpose unless their Opinions be required, nor have any Vote at all; but their Business shall be, by the Direction of the respective Courts, to prepare such Business as shall be committed to them; as also to bear such Offices, and dispatch such Affairs,

either where the Court is kept, or elsewhere, as the Court shall think fit

§. 49. In all the Proprietors Courts, the Proprietor, and any Three of his Councillors shall make a *Quorum*; provided always, that for the better Dispatch of Business, it shall be in the Power of the Palatine's Court to direct what sort of Causes shall be heard and determined by a *Quorum* of any Three.

§. 50. The Grand Council shall consist of the Palatine's and Seven Proprietors, and the Forty Two Councillors of the several Proprietors Courts, who shall have Power to determine any Controversies that may arise between any of the Proprietors Courts, about their respective Jurisdictions, or between the Members of the same Court, about their Manner and Methods of proceeding: To make Peace and War, Leagues, Treaties, &c. with any of the Neighbour *Indians*: To issue out their general Orders to the Constable's and Admiral's Courts, for the raising, disposing, or disbanding the Forces by Land or by Sea.

§. 51. The Grand Council, shall prepare all Matters to be proposed in Parliament. Nor shall any Matter whatsoever be proposed in Parliament, but what hath first passed the Grand Council; which after having been read Three several Days in the Parliament, shall by Majority of Votes be passed or rejected.

§. 52. The Grand Council shall always be Judges of all Causes and Appeals that concern the Palatine, or any of the Lords Proprietors, or any Councillor of any Proprietor's Court, in any Cause which otherwise should have been tried in the Court in which the said Councillor is Judge himself.

§. 53. The Grand Council by their Warrants to the Treasurer's Court, shall dispose of all the Money given by the Parliament, and by them directed to any particular publick Use.

§. 54. The *Quorum* of the Grand Council shall be Thirteen, whereof a Proprietor or his Deputy shall be always one.

§. 55. The Grand Council shall meet the first *Tuesday* in every Month; and as much oftner as either they shall think fit,



or they shall be convocated by the Chamberlain's Court.

§ 56. The Palatine, or any of the Lords Proprietors, shall have Power under Hand and Seal, to be register'd in the Grand Council to make a Deputy, who shall have the same Power to all Intents and Purposes as he himself who deposes him, except in confirming Acts of Parliament, as in § 76. and except also in nominating and chusing Landgraves and Cassiques, as in § 10. All such Deputations shall cease and determine at the End of Four Years, and at any Time shall be revocable at the Pleasure of the Deputator.

§ 57. No Deputy of any Proprietor shall have any Power whilst the Deputator is in any Part of *Carolina*, except the Proprietor, whose Deputy he is, be a Minor.

§ 58. During the Minority of any Proprietor, his Guardian shall have Power to constitute and appoint his Deputy.

§ 59. The Eldest of the Lords Proprietors, who shall be personally in *Carolina*, shall of Course be the Palatine's Deputy; and if no Proprietor be in *Carolina*, he shall chuse his Deputy out of the Heirs Apparent of any of the Proprietors, if any such be there; and if there be no Heir Apparent of any of the Lords Proprietors above One and Twenty Years old in *Carolina*, then he shall chuse for Deputy any one of the Landgraves of the Grand Council; and till he have by Deputation under Hand and Seal chosen any one of the fore-mention'd Heirs Apparent or Landgraves to be his Deputy, the Eldest Man of the Landgraves, and for want of a Landgrave, the Eldest Man of the Cassiques, who shall be personally in *Carolina*, shall of Course be his Deputy.

§ 60. Each Proprietor's Deputy shall be always one of his own Six Councillors respectively; and in case any of the Proprietors liath not in his Absence out of *Carolina* a Deputy, commissioned under his Hand and Seal, the Eldest Nobleman of his Court shall of Course be his Deputy.

§ 61. In every County there shall be a

Court, consisting of a Sheriff and Four Justices of the County, for every Precinct one. The Sheriff shall be an Inhabitant of the County, and have at least Five Hundred Acres of Freehold within the said County; and the Justices shall be Inhabitants, and have each of them Five Hundred Acres apiece Freehold within the Precinct for which they serve respectively. These Five shall be chosen and commissioned from Time to Time by the Palatine's Court.

§ 62. For any Personal Causes exceeding the Value of Two Hundred Pounds Sterling, or in Title of Land, or in any Criminal Cause, either Party, upon paying Twenty Pounds Sterling to the Lords Proprietors Use, shall have Liberty of Appeal from the County Court unto the respective Proprietor's Court.

§ 63. In every Precinct there shall be a Court, consisting of a Steward and Four Justices of the Precinct, being Inhabitants, and having Three Hundred Acres of Freehold within the said Precinct, who shall judge all Criminal Causes, except for Treason, Murther, and any other Offences punishable with Death, and except all Criminal Causes of the Nobility; and shall judge also all Civil Causes whatsoever; and in all personal Actions, not exceeding Fifty Pounds Sterling, without Appeal: But where the Cause shall exceed that Value, or concern a Title of Land, and in all Criminal Causes, there, either Party, upon paying Five Pounds Sterling to the Lord Proprietors Use, shall have Liberty of Appeal to the County Court.

§ 64. No Cause shall be Twice tried in any one Court, upon any Reason or Pretence whatsoever.

§ 65. For Treason, Murther, and all other Offences punishable with Death, there shall be a Commission, Twice a Year at least, granted unto one or more Members of the Grand Council, or Colleges, who shall come as itinerant Judges to the several Counties, and, with the Sheriff and Four Justices shall hold Assizes to judge all such Causes: But upon paying of Fifty Pounds Sterling to the Lords Proprietors Use, there shall be Liberty

erty of Appeal to the respective Proprietor's Court.

§. 66. The Grand Jury at the several Assizes, shall, upon their Oaths, and under their Hands and Seals, deliver in to the itinerant Judges, a Presentment of such Grievances, Misdemeanors, Exigences, or Defects which they think necessary for the publick Good of the County; which Presentment shall by the itinerant Judges, at the End of their Circuit, be delivered in to the Grand Council at their next sitting. And whatsoever therein concerns the Execution of Laws already made, the several Proprietors Courts in the Matters belonging to each of them respectively shall take Cognizance of it, and give such Orders about it, as shall be effectual for the due Execution of the Laws. But whatever concerns the making of any new Law, shall be referred to the several respective Courts to which that Matter belongs, and be by them prepared and brought to the Grand Council.

§. 67. For Terms, there shall be Quarterly such a certain Number of Days, not exceeding One and Twenty at any one Time, as the several respective Courts shall appoint. The Time for the Beginning of the Term in the Precinct Court, shall be the first Monday in *January, April, July* and *October*; in the County Court, the first Monday in *February, May, August* and *November*; and in the Proprietors Courts, the first Monday in *March, June, September* and *December*.

§. 68. In the Precinct Court no Man shall be a Jury-man under Fifty Acres of Freehold. In the County Court, or at the Assizes, no Man shall be a Grand Jury-man under Three Hundred Acres of Freehold; and no Man shall be a Petty Jury man under Two Hundred Acres of Freehold. In the Proprietors Courts no Man shall be a Jury-man under Five Hundred Acres of Freehold.

§. 69. Every Jury shall consist of Twelve Men; and it shall not be necessary they should all agree, but the Verdict shall be according to the Consent of the Majority.

§. 70. It shall be a base and vile Thing

to plead for Money or Reward; nor shall any one (except he be a near Kinsman, nor farther off than Cousin german to the Party concern'd) be permitted to plead another Man's Cause, till before the Judge in open Court he hath taken an Oath, that he doth not plead for Money or Reward, nor hath nor will receive, nor directly nor indirectly bargain'd with the Party whose Cause he is going to plead, for Money or any other Reward for pleading his Cause.

§. 71. There shall be a Parliament, consisting of the Proprietors, or their Deputies, the Landgraves and Cassiques, and one Freeholder out of every Precinct, to be chosen by the Freeholders of the said Precinct respectively. They shall sit altogether in one Room, and have every Member one Vote.

§. 72. No Man shall be chosen a Member of Parliament, who hath less than five Hundred Acres of Freehold within the Precinct for which he is chosen; nor shall any have a Vote in chusing the said Member that has less than Fifty Acres of Freehold within the said Precinct.

§. 73. A new Parliament shall be assembled the first Monday of the Month of *November* every Second Year, and shall meet and sit in the Town they last sat in, without any Summons, unless by the Palatine's Court they be summon'd to meet at any other Place. And if there shall be any occasion of a Parliament in these Intervals, it shall be in the Power of the Palatine's Court to assemble them in Forty Days Notice, and at such Time and Place as the said Court shall think fit; and the Palatine's Court shall have Power to dissolve the Parliament when they shall think fit.

§. 74. At the opening of every Parliament, the first thing that shall be done, shall be the reading of these Fundamental Constitutions, which the Palatine and Proprietors, and the Rest of the Members then present, shall subscribe. Nor shall any Person whatsoever Sit or Vote in the Parliament till he hath that Session subscribed these Fundamental Constitutions, in a Book kept for that purpose by the Clerk of the Parliament.

§. 75. In order to the due Election of Members for the biennial Parliament, it shall



shall be lawful for the Freeholders of the respective Precincts to meet the first *Tuesday* in *September* every Two Years, in the same Town or Place that they last met in to chuse Parliament-Men, and there chuse those Members that are to sit the next *November* following, unless the Steward of the Precinct shall by sufficient Notice Thirty Days before, appoint some other place for their meeting, in order to the Election.

§. 76. No Act or Order of Parliament shall be of any Force, unless it be ratified in open Parliament during the same Session, by the Palatine or his Deputy, and Three more of the Lords Proprietors, or their Deputies, and then not to continue longer in Force but until the next biennial Parliament, unless in the mean time it be ratified under the Hands and Seals of the Palatine himself, and Three more of the Lords Proprietors themselves, and by their Order publish'd at the next biennial Parliament.

§. 77. Any Proprietor or his Deputy may enter his Protestation against any Act of the Parliament, before the Palatine or his Deputy's Consent be given as aforesaid, if he shall conceive the said Act to be contrary to this Establishment, or any of these Fundamental Constitutions of the Government. And in such case, after a full and free Debate, the several Estates shall retire into Four several Chambers, the Palatine and Proprietors into one, the Landgraves into another, the *Cassiques* into another, and those chosen by the Precincts into a Fourth; and if the Major part of any of the four Estates shall Vote, that the Law is not agreeable to this Establishment, and these Fundamental Constitutions of the Government, then it shall pass no farther, but be as if it had never been proposed.

§. 78. The *Quorum* of the Parliament shall be one Half of those who are Members, and capable of sitting in the House that present Sessions of Parliament. The *Quorum* of each of the Chambers of Parliament, shall be one Half of the Members of that Chamber.

§. 79. To avoid Multiplicity of Laws, which by Degrees always change the

right Foundations of the Original Government; All Acts of Parliament whatsoever, in whatsoever form passed or enacted, shall at the End of a Hundred Years after their enacting, respectively cease and determine of themselves, and without any repeal become null and void, as if no such Acts or Laws had ever been made.

§. 80. Since Multiplicity of Comments, as well as of Laws, have great Inconveniences, and serve only to obscure and perplex; all manner of Comments and Expositions of any part of these Fundamental Constitutions, or any part of the Common or Statute Law of *Carolina*, are absolutely prohibited.

§. 81. There shall be a Registry in every Precinct, wherein shall be enrolled all Deeds, Leases, Judgments, Mortgages, and other Conveyances which may concern any of the Land within the said Precinct; and all such Conveyances not so entred or registred, shall not be of Force against any Person or Party to the said Contract or Conveyance.

§. 82. No Man shall be a Register of any Precinct, who hath not at least Three Hundred Acres of Freehold within the said Precinct.

§. 83. The Freeholders of every Precinct shall nominate Three Men, out of which Three, the Chief Justice's Court shall chuse and commission one to be Register of the said Precinct, whilst he shall well-behave himself.

§. 84. There shall be a Registry in every Signiory, Barony, and Colony, wherein shall be recorded all the Births, Marriages, and Deaths, that shall happen within the respective Signiories, Baronies, and Colonies.

§. 85. No Man shall be Register of a Colony that hath not above Fifty Acres Freehold within the said Colony.

§. 86. The Time of every one's Age that is born in *Carolina*, shall be reckoned from the Day that his Birth is entred in the Registry, and not before.

§. 87. No Marriage shall be lawful, whatever Contract and Ceremony they have used, till both the Parties mutually own it before the Register of the Place, where they were married, and he registers



it, with the Names of the Father and Mother of each Party.

§. 88. No Man shall administer to the Goods, or have Right to them, or enter upon the Estate of any Person deceased, till his Death be registred in the respective Registry.

§. 89. He that doth not enter in the respective Registry, the Birth or Death of any Person that is born, or dies in his House or Ground, shall pay to the said Register One Shilling *per* Week, for each such Neglect, reckoning from the Time of each Birth or Death respectively, to the Time of Registering it.

§. 90. In like manner the Births, Marriages and Deaths of the Lords Proprietors, Landgraves and Cassiques, shall be registred in the Chamberlain's Court.

§. 91. There shall be in every Colony one Constable, to be chosen annually by the Freeholders of the Colony: His Estate shall be above a Hundred Acres of Freehold within the said Colony, and such subordinate Officers appointed for his Assistance, as the County Court shall find requisite, and shall be established by the said County Court. The Election of the subordinate annual Officers shall be also in the Freeholders of the Colony.

§. 92. All Towns Incorporate shall be governed by a Mayor, Twelve Aldermen, and Twenty Four of the Common-Council. The said Common-Council shall be chosen by the present Householders of the said Town; the Aldermen shall be chosen out of the Common-Council, and the Mayor out of the Aldermen by the Palatine's Court.

§. 93. It being of great Consequence to the Plantation, that Port-Towns should be built and preserved; Therefore whosoever shall lade or unlade any Commodity at any other Place but a Port-Town, shall forfeit to the Lords Proprietors for each Tun, so laden or unladen, the Sum of Ten Pounds Sterling, except only such Goods, as the Palatine's Court shall licence to be laden or unladen elsewhere.

§. 94. The first Port-Town upon every River, shall, be in a Colony, and be a Port-Town for ever.

§. 95. No Man shall be permitted to

be a Freeman of *Carolina*, or to have any Estate or Habitation within it, that doth not acknowledge a God, and that God is publicly and solemnly to be worshipped.

§. 96. As the Country comes to be sufficiently Planted and Distributed into fit Divisions, it shall belong to the Parliament to take care for the Building of Churches, and the publick Maintenance of Divines, to be employed in the Exercise of Religion, according to the Church of *England*, which being the only true and Orthodox, and the National Religion of all the King's Dominions, is so also of *Carolina*, and therefore it alone shall be allowed to receive publick Maintenance by Grant of Parliament.

§. 97. But since the Natives of that Place who will be concerned in our Plantation, are utterly Strangers to Christianity, whose Idolatry, Ignorance, or Mistake, gives us no Right to expel, or use them ill; and those who remove from other Parts to plant there, will unavoidably be of different Opinions concerning Matters of Religion, the Liberty whereof they will expect to have allowed them, and it will not be reasonable for us, on this Account, to keep them out; That Civil Peace may be maintained amidst the Diversity of Opinions, and our Agreement and Compact with all Men, may be duly and faithfully observed, the Violation whereof upon what Pretence soever, cannot be without great Offence to Almighty God, and great Scandal to the true Religion which we profess; and also that *Jews*, Heathens, and other Dissenters from the Purity of Christian Religion, may not be scared and kept at a Distance from it, but by having an Opportunity of acquainting themselves with the Truth and Reasonableness of its Doctrines, and the Peaceableness and Inoffensiveness of its Professors, may by good Usage and Perswasion, and all those convincing Methods of Gentleness and Meekness, suitable to the Rules and Design of the Gospel, be won over to embrace, and unfeignedly receive the Truth; therefore, any seven, or more Persons agreeing in any Religion, shall constitute a Church or Profession, to which they shall give some Name, to distinguish it from others.

§ 98. The Terms of Admittance and Communion with any Church or Profession, shall be written in a Book, and therein be subscribed by all the Members of the said Church or Profession; which Book shall be kept by the Publick Register of the Precinct where they reside.

§ 99. The Time of every ones Subscription and Admittance, shall be dated in the said Book, or Religious Record.

§ 100. In the Terms of Communion of every Church or Profession, these following shall be three, without which no Agreement or Assembly of Men, upon Pretence of Religion, shall be accounted a Church or Profession, within these Rules:

I. *That there is a G O D.*

II. *That G O D is publickly to be worshipped.*

III. *That it is lawful, and the Duty of every Man, being thereunto called by those that Govern, to bear Witness to Truth; and that every Church or Profession shall in their Terms of Communion set down the external Way whereby they Witness a Truth as in the Presence of God, whether it be by laying Hands on, or kissing the Bible, as in the Church of England, or by holding up the Hand, or any other sensible Way.*

§ 101. No Person above seventeen Years of Age, shall have any Benefit or Protection of the Law, or be capable of any Place of Profit or Honour, who is not a Member of some Church or Profession, having his Name Recorded, in some one, and but one Religious Record at once.

§ 102. No Person of any other Church or Profession, shall disturb or molest any Religious Assembly.

§ 103. No Person whatsoever, shall speak any thing in their Religious Assembly, irreverently or seditiously, of the Government or Governour, or State-Matters.

§ 104. Any Person subscribing the Terms of Communion in the Record of the said Church or Profession, before the Precinct Register, and any 5 Members of the

said Church and Profession, shall be thereby made a Member of the said Church or Profession.

§ 105. Any Person striking out his own Name, out of any Religious Record, or his Name being struck out by any Officer thereunto authorized by each Church or Profession respectively, shall cease to be a Member of that Church or Profession.

§ 106. No Man shall use any reproachful, reviling, or abusive Language, against the Religion of any Church or Profession, that being the certain way of disturbing the Peace, and of hindring the Conversion of any to the Truth, by engaging them in Quarrels and Animosities, to the hatred of the Professors and that Profession, which otherwise they might be brought to assent to.

§ 107. Since *Charity* obliges us to wish well to the Souls of all Men, and Religion ought to alter nothing in any Man's Civil Estate or Right, it shall be lawful for Slaves as well as others, to enter themselves, and be of what Church or Profession any of them shall think best, and thereof be as fully Members as any Freeman. But yet no Slave shall hereby be exempted from that *Civil Dominion* his Master hath over him, but be in all other Things in the same State and Condition he was in before.

§ 108. Assemblies, upon what pretence soever of Religion, not observing and performing the abovesaid Rules, shall not be esteemed as Churches, but unlawful Meetings, and be punished as other Riots.

§ 109. No Person whatsoever, shall disturb, molest or persecute another for his speculative Opinions in Religion, or his way of Worship.

§ 110. Every Freeman of *Carolina* shall have absolute Power and Authority over his *Negro Slaves*, of what Opinion or Religion soever.

§ 111. No *Cause*, whether *Civil* or *Criminal*, of any Freeman, shall be tried in any Court of Judicature, without a *Jury* of his *Peers*.

§ 112. No Person whatsoever shall hold or claim any Land in *Carolina* by  
Part

Purchase or Gift, or otherwise, from the Natives or any other whatsoever, but merely from and under the Lords Proprietors, upon pain of forfeiture of all his Estate, moveable or immoveable, and perpetual Banishment.

§. 113. Whosoever shall possess any Freehold in *Carolina*, upon what Title or Grant soever, shall at the farthest from and after the Year One Thousand Six Hundred Eighty Nine, pay Yearly unto the Lords Proprietors for each Acre of Land *English* Measure, as much fine Silver as is at this present in one *English* Penny, or the Value thereof to be as a *Chief Rent* and Acknowledgment to the Lords Proprietors, their Heirs and Successors for ever. And it shall be lawful for the Palatine's Court by their Officers at any time, to take a new Survey of any Man's Land, not to out him of any part of his Possession, but that by such a Survey the just Number of Acres he possesseth, may be known, and the Rent thereupon due, may be paid by him.

§. 114. All Wrecks, Mines, Minerals, Quarries of *Gems*, and precious Stones, with Pearl-fishing, Whale-fishing, and one Half of all *Ambergreece*, by whomsoever found, shall wholly belong to the Lords Proprietors.

§. 115. All Revenues and Profits belonging to the Lords Proprietors, in common, shall be divided into Ten parts, whereof the Palatine shall have Three, and each Proprietor one; but if the Palatine shall Govern by a Deputy, his Deputy shall have one of those Three Tenths, and the Palatine the other Two Tenths.

§. 116. All Inhabitants and Freemen of *Carolina* above Seventeen Years of Age, and under Sixty, shall be bound to bear Arms, and serve as Soldiers whenever the *Grand Council* shall find it necessary.

§. 117. A true Copy of these *Fundamental Constitutions* shall be kept in a great Book by the Register of every Precinct, to be subscribed before the said Register. Nor shall any Person, of what Condition or Degree soever, above Seventeen Years Old, have any Estate or Possession in *Carolina*, or Protection or Benefit of the Law there, who hath not before a Precinct Register subscribed these *Fundamental Constitutions* in this Form.

*I A. B. do promise to bear Faith and true Allegiance to our Sovereign Lord King Charles the Second, his Heirs and Successors; and will be true and faithful to the Palatine and Lords Proprietors of Carolina, their Heirs and Successors, and with my utmost Power will defend them, and maintain the Government according to this Establishment in these Fundamental Constitutions.*

§. 118. Whatsoever Alien shall in this Form, before any Precinct Register subscribe these *Fundamental Constitutions*, shall be thereby Naturalized.

§. 119. In the same Manner shall every Person at his Admittance into any Office, subscribe these *Fundamental Constitutions*.

§. 120. These *Fundamental Constitutions*, in Number a Hundred and Twenty, and every part thereof, shall be and remain the sacred and unalterable Form and Rule of Government of *Carolina*, for ever. Witness our Hands and Seals, the First Day of *March*, 1669.

*Albemarle,*  
*Craven,*  
*Ashley,*  
*F. Colleton,*  
*H. Cornbury,*  
*F. Berkeley,*  
*G. Carteret,*



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## RULES of PRECEDENCY.

1. **T**HE *Lords Proprietors*, the eldest in Age first, and so in Order.
2. The eldest Sons of the *Lords Proprietors*, the eldest in Age first, and so in Order.
3. The *Landgraves* of the *Grand Council*, he that hath been longest of the *Grand Council* first, and so in Order.
4. The *Cassiques* of the *Grand Council*, he that hath been longest of the *Grand Council* first, and so in Order.
5. The Seven *Commoners* of the *Grand Council* that have been longest of the *Grand Council* first, and so in order.
6. The youngest Sons of *Proprietors*, the eldest first, and so in order.
7. The *Landgraves*, the eldest in Age first, and so in order.
8. The Seven *Commoners*, who next to those before mentioned have been

longest of the *Grand Council*, he that hath been longest of the *Grand Council* first, and so in order.

9. The *Cassiques*, the eldest in Age first, and so in order.

10. The Seven remaining *Commoners* of the *Grand Council*, he that hath been longest in the *Grand Council* first, and so in order.

11. The Male Line of the *Proprietors*.

The rest shall be determined by the *Chamberlain's Court*.

*Albemarle,*  
*Craven,*  
*Ashley,*  
*F. Colleton,*  
*H. Cornbury,*  
*F. Berkeley,*  
*G. Carteret.*

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(Numb. 3.)

*A COPY of the Fundamental Constitutions of Carolina: Agreed on by all the Lords Proprietors, and signed and sealed by them, (the Original being sent to Carolina by Major Daniel;) April the 11th, 1689.*

**O**UR Late Sovereign Lord King *Charles II* having out of his Royal Grace and Bounty, granted unto us, the Province of *Carolina*, with all the Royalties, Properties, Jurisdictions and Privileges of a *County Palatine*, as large and ample as the *County Palatine* of *Durham*, with other great Privileges; for the better Settlement of the Government of the said Place, and establishing the Interest of the *Lords Proprietors*; with Equality, and without Confusion; and that the Government may be made most agreeable

to the Monarchy under which we live, and of which this Province is a Part; and that we may avoid erecting a numerous Democracy, We the *Lords Proprietors* of the Province aforesaid, with the Advice and Consent of the *Landgraves* and *Cassiques* and Commons in this present Parliament assembled, have agreed to this following Form of Government, to be perpetually establish'd amongst us, unto which we do oblige our selves, our Heirs and Successors, in the most binding Ways that can be devised.

1. The

1. **T**HE *Proprietor's Court* shall consist of the *Palatine*, and Seven *Proprietors*; wherein nothing shall be acted without the Presence and Consent of the *Palatine*, and Three others of the *Lords Proprietors*: This Court shall have Power to call and dissolve Parliaments, to pardon all Offences, to make Elections of all Offices in the *Proprietor's* Disposal, to nominate and appoint Port Towns; and also, shall have Power by their Order, to the Treasurer, to dispose of all publick Treasure, excepting Money granted by the Parliament, and by them directed to some particular publick use: And also, shall have a Negative upon all Acts, Orders, Votes and Judgments of the Parliament. And shall have all Power granted to the *Lords Proprietors*, by their Patent, from our Sovereign Lord the King, except in such Things as are limited by these *Fundamental Constitutions*.

2. During the Absence of the *Palatine* and *Proprietors* from *Carolina*, the Governour, commissioned by the *Proprietors*, together with their respective Deputies, shall be the *Proprietor's Court* there, and shall have all the Powers above mentioned, excepting in pardoning Offences, and constituting Port-Towns.

3. In the *Proprietor's Court*, the *Palatine*, and any Three of the *Proprietors*, or the Governour, and any Three of the *Proprietor's* Deputies shall make a *Quorum*.

4. No Deputy of any *Proprietor* shall have Power, whilst the Deputator is in any Part of *Carolina*, except the *Proprietor* (whose Deputy he is) be a *Minor*.

5. During the Minority of any *Proprietor*, his Guardian shall have Power to constitute and appoint his Deputy.

6. There shall be a Parliament, consisting of the *Proprietors* or their *Deputies*, by themselves, the *Landgraves* and *Cassiques* in the upper Houle, and the Freeholders out of every County, to be chosen by the Freeholders of the said County, respectively; together with the Citizens and Burgeses, to be elected by the *Cities* and *Boroughs* which shall be hereafter created in the Lower-House.

7. And since all Power and Dominion is most naturally founded in Property, and that it is reasonable that every Man, who is impowered to dispose of the Property and Estate of others, should have a Property of his own, whereby he is tied in Interest to the Good and Welfare of that Place and Government, whereby he is entrusted with such Power; it is therefore declared and appointed, That no Person shall be admitted, or shall continue to Sit or Vote in Parliament as a *Landgrave*, who has not actually taken up, and has in his Possession at least, Acres, part of the Land granted him in his Patent and Slaves, or in the Possession of his Tenants, Acres of Land. And whose real and personal Estate shall not be worth at least Pounds: Nor as a *Cassique* to Sit or Vote in Parliament, who has not actually taken up, and has in his Possession at least Acres, Part of the Land granted him in his Patent and Slaves, or in the Possession of his Tenants Acres of Land. And whose real and personal Estate shall not be worth at least Pounds.

8. No Person shall be admitted, or continue to Sit or Vote in Parliament as a Representative of the Commons of *Carolina*, who is not possess'd of at least Acres of Land: And whose real and personal Estate is not worth Pounds.

9. No Person shall be capable of giving his Voice for the Election of a Member to serve in Parliament, that is not actually possess'd of Acres of Land, and is a Householder, and has a Family, and whose real and personal Estate does not amount to Pounds.

10. The present Number of the Representatives of the Commons shall be who (as the Country shall encrease) shall also proportionably be encreased, if the Commons do so desire, but shall in no future Time be encreased, beyond One Hundred.

11. And pursuant to that just Maxim of Government above mentioned, and for the Preservation of the Ballance of

Power, according to the Proportion of the Property, it is declared and appointed, That the Number of the Representatives of the People to be sent from any County or Place, shall be more or less, according to the Charges born, and Money paid by each respective Division of the Country in the last General Assessment foregoing such Election.

12. The *Landgraves* and *Cassiques*, who compose the Upper-House, shall not at any time exceed Half the Number of the Commons.

13. The *Landgraves* and *Cassiques* shall be created by the *Lords Proprietors* Letters Patents, under their Great Seal, by the joyn't Election of the *Proprietors*, or a *Quorum* of them, which shall be the Hereditary Nobility of the Province of *Carolina*; and by Right of their Dignity, be Members of the Upper-House of Parliament: Each *Landgrave* shall have Acres of Land, to be taken up in several Counties, and each *Cassique* Acres of Land to be taken up in several Counties, and the said Honour and Dignity shall descend to the eldest Son, unless by Deed or Will devised to any other of the Sons, or for want of Sons to the Eldest Daughter, unless as aforesaid; and for want of such, to the next Heir, unless devised as aforesaid by Deed or Will (to be attested by Three credible Witnesses, whereof one at least to be of the Nobility) to any other Person.

14. And to the End, that such an Order of Persons being made Noble, and invested with great Powers and Privileges, whereby to engage them in a more particular Affection towards this Settlement and Country of *Carolina*, may not fall into Contempt, or be any ways injurious to the Constitution of the Government, it is declared and appointed that whatsoever *Landgrave* or *Cassique*, his Heirs and Successors, shall not be qualified as in Article 7th, and so be excluded from the aforesaid Privilege of sitting and voting in the Upper-House, and shall continue defective in the said Qualification for the space of Forty Years successively, such *Landgrave* or *Cassique*, his Heirs and Successors shall from thenceforth be forever utterly excluded, and his or their Digni-

ty, Honour, Privilege and Title of *Landgrave* or *Cassique* shall cease and be utterly lost, and the Letters-Patents of Creation of such Dignity shall be vacated.

15. And in order to the due Election of Members for the Biennial Parliament, it shall be lawful for the Freeholders of the respective *Precincts* to meet the first *Tuesday* in *Sept.* every Two Years, in the same Town or Place they last met in, to chuse Parliament Men, and there to chuse those Members that are to sit next *Novemb.* following, unless the *Proprietors Court* shall by sufficient Notice Days before, appoint some other Place for their Meeting.

16. A New Parliament shall be assembled the first *Monday* of the Month of *November* every Second Year, and shall meet and sit in the Town they last sat in, without any Summons, unless by the *Proprietors Court* in *Carolina* they be summoned to meet at any other Place, and if there shall be Occasion of a Parliament in these Intervals, it shall be in the Power of the *Proprietors Court* to assemble them in Days Notice, and at such Time and Place, as the Court shall think fit.

17. At the opening of every Parliament, the first thing that shall be done, shall be the reading of these *Fundamental Constitutions*, which the *Palatine* and the *Proprietors*, and the Members then present, shall subscribe; Nor shall any Person whatsoever Sit or Vote in the Parliament, till he has in that Session subscrib'd these *Fundamental Constitutions*, in a Book kept for that purpose, by the Clerk of the Parliament.

18. Any Act or Order of Parliament that is ratified in open Parliament, during the same Session, by the Governour and Three more of the *Lords Proprietors Deputies*, shall be in Force, and continue till the *Palatine* himself and Three more of the *Lords Proprietors* themselves signify their Dissent to any of the said Acts or Orders, under their Hands and Seals. But if ratified under their Hands and Seals, then to continue according to the time limited in such Act.



19. The whole Province shall be divided into Counties by the Parliament.

20. No *Proprietor, Landgrave or Cassique*, shall hereafter take up a Signiory or Barony that shall exceed Four Thousand Acres or thereabouts, for a *Proprietor or Landgrave*; and Two Thousand Acres or thereabouts, for a *Cassique* in one County.

21. No Cause, whether Civil or Criminal, of any Freeman, shall be tried in any Court of Judicature, without a Jury of his Peers.

22. No *Landgrave or Cassique* shall be tried for any Criminal Cause in any but the Chief Justice's Court, and that by a Jury of his Peers, unless a sufficient Number of such cannot be legally had, and then to be supply'd by the best and most sufficient Freeholders.

23. If upon the Decease of the Governour, no Person be appointed by the *Lords Proprietors* to succeed him, then the *Proprietors Deputies* shall meet and chuse a Governour, till a new Commission be sent from the *Lords Proprietors*, under their Hands and Seals.

24. Ballotting shall be continued in all Elections of the Parliament, and in all other Cases where it can conveniently be used.

25. No Man shall be permitted to be a Freeman of *Carolina*, or to have any Estate or Habitation within it, that does not acknowledge a God, and that God is publickly and solemnly to be Worshipp'd.

26. As the Country comes to be sufficiently planted and distributed into fit Divisions, it shall belong to the Parliament to take care for the Building of Churches, and the publick Maintenance of Divines to be employed in the Exercise of Religion, according to the Church of *England*, which being the only True and Orthodox, and the National Religion of the King's Dominions, is so also of *Carolina*, and therefore it alone shall be allowed to receive publick Maintenance by Grant of Parliament.

27. Any Seven or more Persons agreeing in any Religion, shall constitute a Church or Profession, to which they shall give some Name to distinguish it from others.

28. The *Terms of Admittance and Communion* with any Church or Profession, shall be written in a Book, and therein be subscribed by all the Members of the said Church or Profession, which shall be kept by the publick Register of the Precinct wherein they reside.

29. The Time of every one's Subscription and Admittance, shall be dated in the said Book of Religious Records.

30. In the *Terms of Communion* of every Church or Profession, these following shall be Three, without which no Agreement or Assembly of Men upon Pretence of Religion shall be accounted a Church or Profession, within these Rules:

I. *That there is a God.*

II. *That God is publickly to be Worshipp'd.*

III. *That it is lawful, and the Duty of every Man, being thereunto called by those that govern, to bear Witness to Truth, and that every Church or Profession shall in their Terms of Communion set down the external Way whereby they witness a Truth as in the Presence of God, whether it be by laying Hands on, or Kissing the Bible, as in the Church of England, or by holding up the Hand, or any sensible way.*

31. No Person above Seventeen Years of Age, shall have any Benefit or Protection of the Law, or be capable of any Place of Profit or Honour, who is not a Member of some Church or Profession, having his Name recorded in some one, and but one Religious Record at once.

32. No Person of any Church or Profession shall disturb or molest any Religious Assembly.

33. No Person whatsoever shall speak any thing in their Religious Assembly, irreverently or seditiously of the Government or Governour, or of State-Matters.

34. Any Person subscribing the *Terms of Communion* in the Records of the said Church or Profession before the Precinct Register, and any Five Members of the said Church or Profession, shall be thereby made a Member of the said Church or Profession.

35. Any Person striking out his own Name out of any Religious Records, or his Name being struck out by any Officer thereunto authorized by each Church or Profession respectively, shall cease to be a Member of that Church or Profession;

36. No Man shall use any reproachful, reviling or abusive Language against the Religion of any Church or Profession, that being the certain Way of disturbing the Peace, and of hindering the Conversion of any to the Truth, by engaging them in Quarrels and Animosities, to the Hatred of the Professors and that Profession, which otherwise they may be brought to assent to.

37. Since Charity obliges us to wish well to the Souls of all Men, and Religion ought to alter nothing in any Man's Civil Estate or Right, it shall be lawful for Slaves as well as others, to enter themselves, and be of what Church or Profession any of them shall think best, and thereof be as fully Members as any Freeman; but yet no Slave shall hereby be exempted from that Civil Dominion his Master had over him, but be in all other Things in the same State and Condition he was in before.

38. Assemblies upon what Pretence soever of Religion, not observing and

performing the abovesaid Rules, shall not be esteemed as Churches, but unlawful meetings, and be punished as other Riots.

39. No Person whatsoever shall disturb, molest or prosecute another for his Speculative Opinions in Religion, or his way of Worship.

40. Every Freeman of *Carolina* shall have absolute Power and Authority over his Negro Slave, of what Opinion or Religion soever.

41. Any Person at his Admittance into any Office or Place of Trust whatsoever, shall subscribe these *Fundamental Constitutions* in this Form.

*I A. B. do promise to bear Faith and true Allegiance to our Sovereign Lord King William, and will be true and faithful to the Palatine and Lords Proprietors of Carolina, their Heirs and Successors, and with my utmost Power will defend them, and maintain the Government according to this Establishment, in these Fundamental Constitutions.*

These *Fundamental Constitutions* in Number Forty One, and every Part thereof shall be and remain the inviolable Form and Rule of Government of *Carolina*, for ever. Witness our Hands and Seals, this Eleventh Day of April, 1698.

*Bath Palatine,  
A. Ashley,  
Craven,  
Bath,  
for the Lord Carteret,  
William Thornburgh,  
for Sir John Colleton,  
Tho. Amy,  
William Thornburgh,*

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T H E

Present State of Affairs

I N

C A R O L I N A.

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*By* JOHN ASH, *Gent.*

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*Sent by several of the Inhabitants of that Colony, to deliver their Representation thereof to, and seek Redress from, the Lords Proprietors of that Province: Together with an Account of his Reception, by the Honourable the Lord Granvill, their Palatine, President, or Chief of the Proprietors.*

**O**N the Death of *Joseph Blake*, Esq; Governour, and one of the *Proprietors of Carolina*; the *Proprietors* Deputies met, according to their Instructions in such Cases, proceeded to elect a new Governour; and by them *Landgrave Joseph Morton* was Elected Governour. But *James Moor*, Esq; one of the said Deputies, knowing the Party he had amongst the Deputies, and nothing regarding how Disloyal, how Derogatory from the just Right of the *English* Throne that Objection was, objected against the said *Landgrave Joseph Morton*, That he the said *Joseph Morton* had made a Breach

of the Trust reposed in him by the true and absolute *Lords and Proprietors*, &c. by accepting of a Commission for Judge of the Admiralty from King *William*, when at the same Time he had a Commission from the said *Proprietors* for the said Office, in whom the Disposal of the same was: Now, besides the Disloyalty of this Objection, it was also false; for it appears not by the Charter, That the *Proprietors* can impower any one to try Persons for Facts committed out of their Dominions, and which is necessary for such Judge; yet such was his Interest, that on this his Objection, *Landgrave*



Morton was Rejected, and the said James Moore Elected and declared Governour. Of this Landgrave Morton Inform'd, and Complain'd to the Proprietors, but to no purpose.

The Power thus boldly gotten, Mr. Moore resolves to make the best use of it; and therefore finding himself too poor, even with the Countenance of his Office, to make any considerable Profit of the Indian Trade, he lays a Design of getting it wholly into his Power. This he attempted by getting a Bill brought into the Assembly at the latter end of the Year 1700, Intituled, *A Bill for Regulating the Indian Trade*, but so contriv'd as to have made him wholly Master of it. But Mr. Robert Stephens, Mr. Trout (then no Courtier) and some others so plainly shew'd its ill Aim, that it was thrown out of the Assembly, as it was again in the beginning of the Year 1701. On which Mr. Moore perceiving, That that Assembly could not be prevailed with to answer his Ends, he dissolved the Assembly, and about the latter End of that Year a New one was chosen, at the Election of which, tho' the Right of Electing be by the Charter in the Freeholders only, he so Influenc'd the Sheriff, that Strangers, Strangers, Aliens, nay *Mulattoes* and *Negroes* were Poll'd; and Returns made accordingly. Such as at the Place oppos'd those Practices, were abused, nay, assaulted by Mr. Moore's Favourites. By this Means, having got several into the Assembly, of neither Sense nor Credit, but such as would Vote as he would have them, he there kept them from being thrown out on the Petition of those who were unjustly excluded by their being Return'd, by repeated and strangely procur'd Adjournments and Prorogations, until the Proclamation of our New War with France and Spain arriv'd. Then possessing the People by Stories with hopes of mighty Plunder, he got a Design that he had propos'd to the Assembly before, of going against *St. Augustin*, a Fort, belonging to *Spain*, a little to the Southward of *Carolina*, to be approved, tho' in truth it was no more than a Project of Freshbooting under the specious

Name of War, for neither the Preparation nor the Performance will permit any one to believe it was meant for any other Purpose, or the least Good of the Colony.

However, it was approved, and Two Thousand Pounds were raised to equip his Honour and his Comrades off for their beloved Exercise of Plundering, and Slave-catching. This they performed well enough, but carrying on the Pre-terence too far, and coming to sit down before the strong Castle of *St. Augustin*, while they were sending their Plunder to *Jamaica* by their trusty Officers, under Colour of seeking Supplies, sending for Bombs and Mortars, in the midst of all their Riot and Misrule, they were alarm'd by the coming of Four Vessels into the Harbour, in which were (they say) 200 Enemies. At first, being encouraged by Wine up to a Height above performing any Thing, the General Moore resolves bravely to put on Board his Eight Vessels then riding in the Harbour, all their Goods and Plunder, and with his few Men about 500, fight thro' the Enemy, and so come Home. But the Pillow, which often lets out Heat to make way for Caution, changed this his Resolution; So the next Day, having destroyed as many of his own Ships, and as much of his War Stores and Provisions as the haste they were in would allow, he retreats with such Caution and Dispatch, that he lost not one Man by the Enemy.

This Expedition, whatever the Governour or General (if you please) got by it, brought a Debt on the Country (besides the 2000 *l.* first raised) of near 6000 *l.* for the Payment of which (and Security of the Country, as was said) the Assembly was called; they enquire into the Debt, bring in a Bill to raise the Sum, consider of defending the Southward open to the Enemy; but of that the Courtiers made but a Jest, even in the House, and it yet is (as I hear) neglected; as also a Bill for Regulating Elections for the Future, for to the Breaches of the Freeholders Rights, our present Miseries they saw were plainly owing,

nor had those Members, who sat by Means of those illegal Practices, the Courage to oppose it; so it pass'd the Assembly, but being sent up to the Governour in Council, it was there thrown out; on which Fifteen Members (the Assembly consists of Thirty) left the House, resolving no longer to cover with their Authority the pernicious Practices of the *Ministry*, since nothing useful for the Country could be obtained.

On this several of Mr. *Moore's* Favourites, after having been treated by him (and thereunto encourag'd, as is said) headed the Rabble, and in a riotous Manner, sought after (threatning openly to murder them) several Persons thought the chief Opposers and Milliners of Mr. *Moore's* Management; some they met with, Members of the Assembly, one Deputy, several rich Merchants, and good Planters, Confining, Striking and Abusing them; and for several Days continuing these Disorders, particularly breaking open a House one Night on a poor Woman, and so abusing her, that thereupon she brought forth a dead Child, whose Scall, Arm, and Back-bone was broken, and one Eye forc'd out of its Head, as the Chyrurgion, who delivered her, depos'd; but this Violence not producing that Submission as was expected, that Assembly was Dissolv'd.

Of this Riot, Complaint was several times, while it lasted, made to Mr. *Moore*; but he would not try to suppress it, nor, when in some Measure over, would he take any Care that they should be Prosecuted; nor so much as oblige such of them, as *Landgrave, Thomas Smith*, regularly demanded Security of the Peace from, to give the same: Nay, one Mr. *Stephens*, who was not in Town then, but heard he was named by the Rioters as one of the profcribed, going with several who had been injur'd, to see how Mr. *Moore* would receive them, was, while sitting by Mr. *Moore* at his own Table, by a Servant of Mr. *Moore's* pull'd backwards by the Hair of his Head, struck and wounded, and all only for his im-

pertinent Curiosity, as he was told on that Occasion. He desires the Governour to bind this his Servant to his good Behaviour, and oblige him to appear to answer this Action at the next Sessions, but nothing was done. The now Governour, Sir *Nathaniel Johnson*, was hereby oblig'd to take on him the Government. To him immediately the Injur'd apply'd for Justice, but are denied; and, tho' the Grand Jury, a little after he took on him his Office, after having receiv'd a Record of the Riot from *Landgrave Bellingier* on his own View, and on Examination of Witneses and Depositions in relation to the Outrage committed on the Woman with Child, presented it to the Court as a great Grievance, that this Riot was not looked into, nor the Rioters prosecuted, yet no Justice against them could be obtain'd, the Judge giving for Answer, *It was before the Council his Superiors*. The present Governour, That it was an Action donè before his coming to the Government, that he thought the Time of Prosecution lapsed, but would take care the like should be no more.

Then a new Assembly was call'd; and at the Election for *Berkeley* and *Crawford* County, (for in *Colleton* County there was no Opposition) the Violences in Mr. *Moore's* Time, and all other illegal Practices were with more Violence repeated and openly avow'd by the present Governour and his Friends. On this *Joseph Morron* and *Edmund Bellingier, Landgraves*, and Deputies of the Lords Proprietors, all the other Members of *Colleton* County, and several of the greatest Worth and Reputation in *Berkeley* County prevail'd with me to come for *England*, and represent to our Proprietors our miserable State; which (when I should be gone, for before they durst not) they said they would write down, subscribe, and with Letters of Credence, send to me to *Virginia*, where they knew I was to wait for Convoy. This they did, and I receiv'd them, and not only what they promis'd, but an Account of what extraordinary Advances the late and present Governours made, by help of their



new Assembly, to their desired absolute and tyrannick Power; and particularly their Practices on one *John Martin*, to squeeze from him 60*l.* for the present Governour, whereas the other had been content with Fifty, for that Favour, which they would persuade *John Martin* was necessary for him: But he thought this too oppressive, so makes his Escape, not daring to stay in that Country. But before he goes, discovers a Design Mr. *Moore* had of Employing him the said *John Martin* in a private Trade with the *French*, in which its more then likely others were to be concern'd. 'Tis true, I can't, by the Evidence I have here, legally convict them of this Design of holding Commerce with Her Majesty's Enemies; but I think the original Letter I have of Captain *Moore's* to *John Martin*, the strange Bond on the Breach of their Confederacy, by the present Governour extorted from *John Martin's* Brother *Patrick*, and his Securities, of which I have a Copy, as also the Illustration of some obscure Expressions in the Letter made by *John Martin* himself, which are that the *Respects* to be sent by Mr. *Valentine the Jew*, was the 60*l.* required, Our *Business*, the private Trade with the *French*, will hardly let one doubt but they had such a Design.

The Treacheries, Oppressions and Hostilities committed by *F. Moore, Esq;* on the Natives before this our War with *Spain*, and which now under that Colour, tho' on such as are neither subject to them,

nor have injur'd us, much increased, are Acts so barbarous, so inconsistent with the Profit and Safety a good Correspondence with them would afford us, that I dare but mention it, lest it let me into a Description too large for this Paper; nor for the same Reason can I here give a full Account of that partial Prosecution which the same *James Moore*, as Attorney-General, made against one — *Alford* his Servant or Trader, accus'd of having hir'd and assisted an *Indian* Slave in Murthering his Master *John Henry*, Servant or Trader to Mr. *James Stanyarn*, not for any Quarrel that was between them, but only to remove a too successful Competitor in that Trade of which the Grand Jury held at *Charles Town* in last complain'd, desired the Tryal therefore to be deferr'd till the Witnesses wanting might be present, and the *Indian*, who, confessing the Fact was condemn'd, might till the Tryal should be over, be Repriev'd; all which the said *James Moore*, with heat opposed, tho' the Judge thought it reasonable, and answer'd their Desire.

To confirm and strengthen the Truth of this my Relation, I have thought fit to offer to the Reader the Representation as drawn by those who sent me, whose Names are Subscrib'd; as also the Minutes of the Election of Mr. *Moore*, and the Message from the Grand Jury to the Court about the Riot.



To his Excellency John Granvill, Esq; Palatine, and to the rest of the true and absolute Lords and Proprietors of the Province of Carolina.

The Representation and Address of several of the Members of this present Assembly returned for Colleton County, and other the Inhabitants of this Province, whose Names are hereunto subscribed.

May it please your Lordships,

Altho the miserable Estate of this Colony will be sufficiently known to your Lordships, from the Relation of *John Asb*, Esq; who is fully intrusted by us to remonstrate our Grievances to your Lordships; yet we think our selves exceedingly bound and obliged to lay before you what we think does concern your Lordships Honours, and the Peoples Rights and Privileges: For if the Question were about Matters of small moment, we should be ashamed to be importunate, and unwilling to give the least trouble to your Lordships; but considering that the very Foundation of our lawful Rights, hath of late been struck at by Persons, who have more regard to their private Interest than the publick Good, we humbly conceive, that it cannot stand with the Duty we owe to our selves as *Englishmen*, or to our Posterity, to sit down contented with less than that which every Liege and Free-born Subject of the Crown of *England* may, and of right ought to have. And therefore lest our Silence should be prejudicial to so important a Cause, we humbly crave your Lordships leave, faithfully and impartially to represent to you the great and notorious Violations and Infringements of our Laws and Liberties, under which we suffer.

We shall go no further back, but date the unhappy Cause and Grounds of our Complaints from and immediately after the Death of the late Governor *Blake*; For the Choice and Election of a Governor to succeed him being intrusted with your

Lordships Deputys here, that Person amongst your said Deputys who made the strongest Party in the Counsel, did carry the Government by perverting the Design, and breaking thro the Rules and Instructions agreed to by your Lordships for such Election. And th's manifestly appear'd in the unjust Election of the late Governor *Moore*, in prejudice of Landgrave *Morton's* Title, who (after he was Elected by a Majority of the Council then present) was objected against by the said *Moore*, and excluded only because he had accepted of a Commission from the King: And as the said *Moore* acquir'd and obtain'd the Government of this Province by Fraud, Flattery and trifling Exceptions, as aforesaid; so has he endeavour'd ever since to manage all things by base and indirect Methods, and crafty Projects, which made his Government miserably unfortunate to us all. The great personal Debts and Necessities which the said late Governor *Moore* had to struggle with, may well be thought to have put him upon, and prompted him to designs to enrich himself at the publick Peace and Welfare: And because these his Designs cou'd not possibly be effected by himself alone, he knew very well, that to engage the Council to his Interest, and to have an Assembly chosen to his liking, wou'd be the way effectually to compleat and accomplish his Ends and Purposes: Thereupon 'tis manifest, there being Vacancies in the Council for Persons fit, and worthy to represent your Lordships, and your Lordships Pleasure not be-

ing then signified and known therein, those very Vacancies were supplied by such Persons whom he beforehand knew, and was well satisfied and assured would be for his Use and Purpose; and it's as well known, that the Debates and Consultations of the Council have all along been carried on, and managed to the Ends aforesaid.

And pursuant to his said Design, he did by indirect Practices endeavor that such an Assembly might be chosen as would be agreeable in their Temper and Disposition with his Designs and Resolutions: This was to be brought about, tho the very Foundation of our *English* Rights and Liberties were undermin'd and utterly subverted in the Attempt.

I. We therefore in the first place humbly represent to your Lordships, and we do assert and maintain, That it is one of the fundamental Rights and unquestionable Privileges belonging to *English-men*, that all Elections of their Representatives to serve in Parliament ought to be free and indifferent, without any Prayer or Commandment to the contrary; and that no Alien born out of the Allegiance of the Crown of *England*, unless he be otherwise especially qualify'd, ought to elect for, or be elected to serve as a Member of Assembly; all which notwithstanding, at the Election of Members of Assembly to serve for *Berkly* County made in the Month of *November*, 1701. there were several great Abuses made and committed, against the Ancient Usages and Customs of this Province, and contrary to Law, particularly an Act intitul'd, *An Act for Regulating Elections*, &c. and to the great Dissatisfaction, and manifest Prejudice of the several Inhabitants of this Province, Candidates and others. For so it was, may it please your Lordships, that at the said Election, much Threatnings, many Intreaties, and other unjustifiable Actions were made use of, and illegal and unqualify'd Votes given in to the Sheriff, and by him receiv'd and return'd; particularly the Votes of very many unqualified Aliens were taken and enter'd, the Votes of several Members of the Council were filed and receiv'd, a great number of Servants, and poor and indigent Persons, voted promiscuously with their Masters and

Creditors, as also several free *Negroes* were receiv'd, and taken for as good Electors as the best Freeholders in the Province. So that we leave it with your Lordships to judg, whether admitting Aliens, Strangers, Servants, *Negroes*, &c. as good and qualified Voters, can be thought any ways agreeable to King *Charles's* Patent to your Lordships, or the *English* Constitution of Government.

II. We represent to your Lordships, that when at the meeting of the Assembly, divers Candidates, by Petition by them exhibited, pray'd to be heard against the Return of the Sheriff for *Berkly* County of the Election aforesaid, and insisted upon their Right, and that the Sheriff's Return was false and illegal; and the said Assembly, the better and more impartially to inquire into the ill Practices at the said Election, did first of all resolve to begin upon Privileges and Elections, that the late Governor *Moore*, to prevent such Inquiry, did several times prorogue the said Assembly.

III. That when the said Assembly were at last suffer'd to sit, the Inquiry and Examination into the Sheriff's Return of the last Election was obstructed, and industriously prevented, by setting on foot an illud Design of raising Forces to attacke *St. Augustine*.

IV. That notwithstanding your Lordships repeated Commands to your Deputies to procure a good Regulation of the *Indian* Trade, on which our friendly Correspondence with all our Neighbouring *Indians*, and the Peace and Safety of this Colony chiefly depends, yet the said late Governor *Moore* has been by his Artifices, the chief (if not the only) occasion of obstructing the same, designing nothing less than ingrossing the same for himself and Accomplices; having already almost utterly ruin'd the Trade for Skins and Furs (whereby we held our chief Correspondence with *England*) and turn'd it into a Trade of *Indian*-catching or Slave-making, whereby the *Indians* to the *South* and *West* of us are already involv'd in Blood and Confusion; a Trade so odious and abominable, that every other Colony in *America* (altho they have equal Temptation) abhor to follow.



V. That the said late Governor *Moore* did grant Commissions to *Anthony Dods-worth*, *Robert Mackoone* and others, to set upon, assault, kill, destroy, and take Captive as many *Indians* as they possible could, the Profit and Produce of which *Indian Slaves* were turn'd to his private use; whereas such Undertakings, unjust and barbarous in themselves, will in all probability draw upon us an *Indian War*, with all the dreadful Consequences of it.

VI. We represent to your Lordships, that the late unfortunate, ill-contrived, and worse-managed Expedition against *St. Augustine*, was principally set on foot by the said late Governor and his Adherents; and that if any Person in the said late Assembly undertook to speak against it, and to shew how unfit and unable we were at that time for such an Attempt, he was presently look'd upon by them as an Enemy and Traitor to his Country, and reviled and affronted in the said Assembly, altho the true Design of the Expedition was no other than catching and making Slaves of *Indians* for private Advantage, and impoverishing the Country. And this will plainly appear, when your Lordships know that your Country is brought more in Debt at this time, and upon this occasion, than ever since its first Settlement, if we put all the Debts we have owed together. And that the Expedition was to enrich themselves, will appear particularly, because whatsoever Booty, as rich Silks, great Quantity of Church-Plate, with a great many other costly Church-Ornaments and Utenils taken by our Soldiers at *St. Augustine*, are now detained in the Possession of the said late Governor and his Officers, contrary to an Act of Assembly made, for an equal Division of the same among the Soldiers.

VII. That the said late Governor would have had the said Expedition against *St. Augustine* begun and undertaken before the War with *Spain* was proclaimed here; and this was vehemently urged by his Interest in the said Assembly; but with much ado, being put to the Vote, was carried in the Negative. And when at last the Expedition was ordered, the Management of the said late Governor was such in all its Steps, particularly in relation to his shame-

ful Retreat, and burning the Country's Vessels, that we are ashamed to mention the same, till we have a Free Assembly, before which the matter may be fairly tried, which is the only thing the said late Governor and his Adherents are most afraid of.

VIII. That in the said late Assembly, the Constitutions sent by Major *Daniel* were offer'd for their passing, urg'd with great Strength of Reason for to have them pass'd by Mr. *Ash*; but they were opposed by Mr. *Trott*, Mr. *Howes*, and others the said Governor's Creatures, and several reflecting Words used by the said *Trott* and *Howes* concerning them, exposing the Constitutions as ridiculous and void in themselves; thereby endeavouring (notwithstanding your Lordships care of us) to keep the People in an unsettled Condition, that from time to time they might the more easily be imposed on by them.

IX. That after the People returned from *St. Augustine*, the time for the said Assembly to meet, according to the last Prorogation, was just at hand; when they met, they went upon the Inquiry of the Charges the Country had been at in the said Expedition, and were upon Debate for the finding out ways and means for the Payment of the Country's Debts, for securing the Colony, for the settling of Elections for the future, and for granting as much Freedom to the *French* and other Aliens as could be granted by the Assembly, or the *French* reasonably expect. A Bill for the better Regulating Elections, passed the Lower House twice, and was sent up to the said Governor and Council, where it was rejected without so much as a Conference; upon which several of the Members, jealous of their Privileges, and being so ordered by those that sent them, left the House, first entering their Protestation, a Copy of which Mr. *Ash* has to shew your Lordships, and to which we refer you.

X. But what we have yet to represent to your Lordships, makes very deep Impressions on us, and is not to be thought on by us, but with the greatest Regret and Concern. For altho the Members of the late Assembly, who protested and did leave



the House as aforesaid (hoping that the next day they might find things in better order, and some temperating means found out, which might have given some tolerable Assurance of having their Libertys secured) went every one of them to the House for the morrow, and frankly offered to sit longer, if the rest of the Assembly would join with them to assert their Rights; but instead of any Compliance, they were abus'd, revil'd, and treated with the most reflecting Language imaginable, very unbecoming an Assembly. And we further represent to your Lordships, that in a day or two after such Abuse given them in the House, several of the said Members, *viz.* the said *John Ash*, Esq; Landgrave *Thomas Smith*, and others, were assaulted and set upon in the open Street; without any Provocation or Affront by them given or offered. The said *Thomas Smith* was set upon by Lieutenant Colonel *George Dearsby*, who with his Sword drawn, and the Point held at the said *Smith's* Belly, swore he would kill him, and if he had not been prevented, would have done the said *Smith* some considerable mischief, to the endangering of his Life. The said *John Ash* walking along the Street, was assaulted by a rude, drunken, ungovernable Rabble, headed, encouraged and abetted by the said *Dearsby*, *Thomas Dalton*, *Nicholas Nary*, and other Persons, Inhabitants, who set upon the said *Ash*, used him villanously and barbarously: and that Evening, when he the said *Ash* was retired into a Friend's Chamber for Security, the same armed Multitude came to the House where the said *Ash* was, and demanded him down, assuring him at the same time that they would do him no hurt, but only wanted to discourse with him: upon which Assurance he came down to them; who notwithstanding, being encouraged and assisted by Captain *Rbett* and others, drew him by Force and Violence on board his the said *Rbett's* Ship, reviling and threatening of him as they drag'd him along; and having gotten him on board the said *Rbett's* Ship, they sometimes told him they would carry him to *Jamaica*, and at other times threatened to hang him, or leave him on some remote Island.

XI. That the said late Governor had the same way (immediately before the Riot began) treated a great many of the Persons concerned therein, and used such Expressions to them, as gave them, next their Drink, the greatest Encouragements for what they acted, by telling them that the protesting Members would bring the People on their Heads for neglecting to pay the Country's Debts, which if it should happen he knew not who could blame them; in the mean time he thank'd them for their close Adherence to him in all his Concerns. And after the Riot began (of part of which he was an Eyewitness) having first drank with some of them, he withdrew himself out of the way, thereby giving them greater Encouragement to proceed in their Tumultuous Practices, and by his Example and Absence discouraging the inferior Officers from executing their Duty.

XII. That whilst the said Riot continued, which was four or five Days, Landgrave *Edmond Bellinger*, who was a Justice of the Peace, there being no other to be seen that understood his Office, went out to suppress and record the aforesaid Riot; but the Rioters no sooner saw him, than they called him all the opprobrious Names they could think of, and the said *Rbett* came up to him and struck him over the Head with his Cane, and continued beating and striking of him for a considerable time, as by the said Record herewith sent your Lordships will more fully appear.

XIII. That the said Rioters beat and abused Mr. *Joseph Boone*, and put him in danger and fear of his Life, without any Provocation by him given or offered; and that for four or five days successively, and at other times after, the said Rioters unusually armed and weapon'd to the great terror of the People, frightened and terrified Persons, that they were forced to leave the Town, their Affairs and Interests exposed to the Mercy of a licentious Rabble.

XIV. That some of the said Rioters, whilst the Riot was at the Church, went one night to the House of *John Smith*, a Butcher in *Charles-Town*; and there being a Woman big with Child in the said House,

House, they with Force opened the Door, threw her down, and otherwise misused her, that she brought forth a dead Child, with the Back and Skull broken.

XV. That the said *John Ash, Thomas Smith, James Byres, Joseph Boone*, and others, complained to the said late Governor and his Council, setting forth the Abuses and barbarous Usages they had met withal from the aforesaid Rioters, and the Danger they were yet in, for that the said Rioters were still in Arms, &c. but they met with no other Satisfaction from them, than that the said late Governor shifted off the matter, by saying it was a business fit for a Justice of Peace; and being asked for *James Byres*, whether or not he look'd on himself, as Governor, obliged to keep the Peace of the Province? he replied, that was a Question he was not obliged to answer.

XVI. That before the next Sessions of the Peace holden for the said Province, *Sir Nathaniel Johnson* was proclaimed, and took upon him the Government, and then *Mr. Trotter* had a Commission to be Judge, and the said late Governor was made Attorney General, so that it was in vain to expect any Relief or Remedy here: However, the said *Edmond Bellinger* did what in him lay to have the said Riot inquired into, gave in the Record thereof to the Bench, and some of the Grand Jury urged to have it presented, but to no purpose, for some of the Abettors of the Rioters being of the Jury, and making Friends there, stopt the whole Proceeding.

XVII. We further represent to your Lordships, that contrary to the Rights and Privileges which we ought to enjoy, the last Election of Members to serve for *Berkly County*, was managed with greater Injustice to the Freemen of this Province than the former: For at this last Election, Jews, Strangers, Sailors, Servants, Negroes, and almost every *French Man* in *Craven* and *Berkly County* came down to elect, and their Votes were taken, and the Persons by them voted for, were returned by the Sheriff, to the manifest wrong and prejudice of other Candidates.

Things standing with us, as is before faithfully represented to your Lordships,

we thought it our Duty; since we can have no Remedy or Relief in *Carolina*, to apply our selves to your Lordships, whose Paternal Care and Concern for us, we question not, will be signally evidenced and extended unto us upon such occasions, and in such extremities: For when once our Lawful Rights and Privileges are denied us, when Foreigners and Strangers shall make our Laws, when we can have no Protection from those who ought, and are intrusted by your Lordships, to see the Laws executed; when, in a word, Force is made the Arbitrer of all Differences, and all things reduced to a State of Confusion, it is surely a time, if ever there be one, for a People to complain: and miserable are those Subjects, who must be hector'd and domineer'd over by their Fellow-Subjects, even by those who have hardly any other way to support their decayed Fortunes but at the Expence of the Publick. It may be worth your Lordships while to reflect what might have been the occasion, that so few Persons of Interest, Honour and Education, come amongst us, and that good People go, and are going from us, when the Colony is in a thriving Condition; certainly it is because the *English* Liberties, that all her Majesty's Subjects in all other Places in her Dominions justly claim, are notoriously trampled on, to the great Discouragement of Settlers. As to the *French*, they have hitherto lived peaceably, and with due Encouragement amongst us; but when we see and consider, that they are often made Tools of, and imposed upon, and persuaded by ill-designing Persons here, to carry on sinister Designs to the general Disadvantage of the Country, and how easily they are drawn into Errors, by reason they have not a right understanding of our Language, and are ignorant of our Laws, we can't imagine that we do them any hurt, by making good and wholesome Laws for us and them, since we oblige them by no other Laws whatsoever, or upon any account, than what we our selves are obliged by, and live under. What then have we to entreat for and pray of your Lordships? Nothing less, than that your Lordships would be pleased to take all and singular the Premises into your serious



serious Considerations, to settle and establish the Peace of this Colony on such a sure Foundation, that it may be beyond the Wit and Malice, and out of the power of ill-designing Men to disturb it for the time to come. And lastly, we on behalf of our selves and her Majesty's Liege Subjects, Inhabitants of this Province, do more especially pray and desire your Lordships, that you would be pleased to give Directions for calling a Free General Assembly, which will undoubtedly assist your Lordships to redress and remove the Grievances aforesaid, settle the Peace and Prosperity of this Colony, and procure that cheerful Obedience which ought to be rendered to your Lordships, under her present Majesty; carrying with it the Offer of our Fortunes and best Endeavours for her Majesty's and your Lordships Honors, as a real Testimony of our Thankfulness.

*May it please your Lordships,*  
**A**LL the Complaints and Grievances above express'd, cannot be supposed to be personally known, and proveable by every of us the Subscribers of the same (tho' there be none of us, but to our sad Experience can witness too many of them) but we make no doubt, when your Lordships shall order such a Method for Enquiry into the Truth of the Premises, as may be free, without partiality and brow-beating of the Persons to be examined thereon, they will be made as evident, as that the Sun at Noon shines in our Hemisphere.

*That your Lordships may long and prosperously live, is the Prayer of,*  
*may it please your Lordships, your Lordships most humble and most obedient Servants.*  
 Signed by above 150 of the Principal Inhabitants.

(Numb. 6.)

*An Act for the more effectual Preservation of the Government of this Province, by requiring all Persons that shall hereafter be chosen Members of the Commons House of Assembly, and sit in the same, to take the Oaths and subscribe the Declaration appointed by this Act; and to conform to the Religious Worship in this Province, according to the Church of England; and to receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the said Church.*

**A**S nothing is more contrary to the Profession of the Christian Religion, and particularly to the Doctrine of the Church of England, than Persecution for Conscience only: Nevertheless,

Whereas it hath been found by Experience, that the admitting of Persons of different Persuasions and Interest in Matters of Religion, to sit and vote in the Commons House of Assembly, hath often caused great Contentions and Animositys in this Province, and hath very much obstructed the Publick Business; and whereas by the Laws and Usage of England, all

Members of Parliament are obliged to conform to the Church of England, by receiving the Sacrament of the Lord's Supper, according to the Rites of the said Church.

Be it therefore Enacted, by his Excellency *John Lord Granville*, Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the Advice and Consent of the rest of the Members of the General Assembly, now met at *Charles-Town*, for the South-West Part of this Province, and by the Authority of the same, That every Person that



that after the Ratification of this Act, shall be chosen a Member of the Commons House of Assembly, that hath not, within the Space of Twelve Months before such his Election, received the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of *England* as establish'd by Law, such Person after his Election, and before he be permitted to sit and vote in the said House, shall receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of *England*, in some publick Church, upon some Lord's Day, commonly called *Sunday*, immediately after Divine Service and Sermon; and every of the said Persons in open Assembly, in a full House duly sitting, with their *Speaker* in his Chair, shall deliver a Certificate of such his receiving of the said Sacrament as aforesaid; under the Hand of the respective Minister, or shall make proof of the Truth thereof by two credible Witnesses at least upon Oath.

But whereas some Persons scruple the Receiving the Sacrament of the Lord's Supper, by reason they fear they are not rightly fitted and prepared to partake of that Ordinance, who do nevertheless out of real Choice conform to the Church of *England* as Establish'd by Law, and do sincerely profess the Same, and do not abstain from the Sacrament of the Lord's Supper, out of any dislike to the Manner and Form of the Administration thereof, as used by the Church of *England*, and prescribed in the Communion-Office, in the Book of the Common-Prayer of the said Church.

Be it therefore enacted by the Authority aforesaid, That every Person that after the Ratification of this Act shall be chosen a Member of the Commons House of Assembly in this Province, in case he hath not received the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of *England*, as is before prescribed by this Act, then every such Person before he vote in the said Commons House of Assembly, or sit there during any Debate in the said House, after their *Speaker* is chosen, shall upon his Oath taken on the *Holy Evangelists*, declare, That he is of the Profession of the Church of *England* as established by

Law: and, that he doth not abstain from the Sacrament of the Lord's Supper out of any Dislike to the Manner and Form of the Administration thereof, as used by the said Church of *England*, and as it is prescribed in the Communion-Office, in the Book of Common-Prayer of the said Church; and that he is not, nor for One Year past, hath not been in Communion with any Church or Congregation that doth not conform to the said Church of *England*, nor received the Sacrament of the Lord's Supper in such Congregation; and that as a Member of this the Commons House of Assembly, he will endeavour the Good and Welfare of the said Church of *England* as Established by Law: which said Oath or Declaration of Conformity to the Church of *England*, shall be in the Form herein set down and prescribed (that is to say) 'I A. B. Do solemnly and sincerely, in the Presence of God, profess, testify and declare, That I am of the Profession of the Church of *England* as established by Law; and that I do conform to the Same, and usually frequent the said Church for the publick Worship of God; and that I do not abstain from the Sacrament of the Lord's Supper, out of any Dislike to the Manner and Form of the Administration thereof, as used by the said Church of *England*, and as it is prescribed in the Communion-Office, in the Book of Common Prayer of the said Church; and that I am not, nor for One Year past, have not been in Communion with any Church or Congregation that doth not conform to the said Church of *England*, nor received the Sacrament of the Lord's Supper in such Congregation; and that as a Member of this House of Assembly, I will endeavor the Good and Welfare of the said Church of *England*, as established by Law: So help me God. — Which said Oath or Declaration of Conformity shall be solemnly and publicly made and subscribed by every Member of the said Commons House of Assembly (that doth not produce a Certificate or other Proof of his having received the Sacrament of the Lord's Supper, as before prescribed by this Act) between the Hours of Nine in the Morning, and Four in the Afternoon,

at the Table in the said House, and whilst a full House is sitting with their *Speaker* in his Chair: And every such Person that shall upon Oath make and subscribe such Declaration of Conformity to the Church of *England*, is hereby declared to be sufficiently qualified to be a Member of the Commons House of Assembly, as if he had received the Sacrament of the Lord's Supper according to the Usage of the Church of *England*, as is above prescribed by this Act.

And be it further Enacted by the Authority aforesaid, That all Persons that after the Ratification of this Act shall be chosen Members of the General Assembly, before they Vote in the Commons House of Assembly, or sit there during any Debate in the said House of Commons, after their *Speaker* is chosen, shall on the Holy Evangelists take the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy, by one Act of Parliament, made in the First Year of the Reign of the late King *William* and Queen *Mary*, intituled, 'An Act for the Abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths; and shall make and subscribe the Declaration appointed to be made and subscribed in the Act made in the Thirtieth Year of the Reign of the late King *Charles* the Second, ' intituled, An Act for the more effectual Preserving the King's Person and Government, by disabling Papists from sitting in either Houses of Parliament: And shall also take the Oath appointed to be taken by one Act of Parliament made in the First Year of the Reign of Her present Majesty, intituled, 'An Act to declare the Alterations in the Oath appointed to be taken by the Act, intituled, An Act for the further Security of her Majesty's Person, and Succession of the Crown in the Protestant Line; and for extinguishing the Hopes of the pretended Prince of *Wales*, and all other Pretenders, and their open and secret Abettors, and for declaring the Association to be determined. Which Oaths and Declaration in every succeeding Assembly shall be solemnly and publickly made and subscribed betwixt the Hours of Nine in the

Morning and four in the Afternoon by every Member of the said Assembly, at the Table of the said House, and whilst a full House is sitting, with their *Speaker* in his Chair.

And be it further Enacted by the Authority aforesaid, That if any Person that shall hereafter be elected a Member of the Commons House of Assembly, shall presume to sit and vote in the said Commons House after their *Speaker* is chosen, before he hath received the Sacrament of the Lord's Supper, according to the Rites and Usage of the said Church of *England*, or upon Oath made and subscribed such Declaration of Conformity to the Church of *England* as is prescribed by this Act, and hath also taken the Oaths, and made and subscribed the Declaration, as required by this Act; every Person so offending shall forfeit for the first time he shall so sit the Sum of Fifty Pounds current Mony of this Province; and for every Day after that he shall so sit, the Sum of Ten Pounds, the one Half to the Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, to be paid to the publick Receiver of this Province, to and for the Support of the Government of this Province, and the continuing Charges thereof, to be disposed of by Ordinance of the General Assembly; and the other Half to him or them that shall sue for the same within Six Months after the Offence committed, by Action of Debt, Suit, Bill, Complaint, or Information in any Court of Record in this Province, wherein no Essoign, Protection, Privilege, Injunction, or Wager of Law, or Stay of Prosecution, by *Non vult ulterius prosequi*, or otherwise, shall be admitted or allowed.

And be it further enacted by the Authority aforesaid, That in case any Person shall be returned a Member of the Commons House of Assembly, who shall refuse to qualify himself as required by this Act, and so cannot be permitted to sit and vote in the said House, that then and in such Case it shall be lawful for those Members of Assembly, that are qualified to sit and vote in the said House of Assembly, to order the Sheriff of the County to lay the Poll or List of the several Candidates,



didates, and the Numbers of them that voted for each of the Candidates, and admit that Person or Persons, that hath the greatest Number of Votes next to them, Members that were return'd to sit and vote, as a Member or Members of the said Commons House of Assembly, provided they do qualify themselves as is above directed by this Act: And in case there is not a sufficient Number of the other Candidates, that are qualified, as aforesaid, to fill up

the Vacancies, that then a new Writ shall be issued out for such Number as is so wanting.

Read three times, and ratified in open Assembly, the Sixth Day of *May*, Anno Domini, 1704.

*Nathaniel Johnson, Thomas Broughton,  
James Moore, Robert Gibbs,  
Henry Noble, Nicholas Troit.*

(Numb. 7.)

To His Excellency, John Lord Granville Palatine, and to the rest of the true and absolute Lords and Proprietors of the Province of Carolina.

*May it please Your Lordships;*

BY an Address sent Your Lordships by *John Ash Esq;* bearing date the 26th of *June*, 1703. several of the Inhabitants of this part of Your Province, set forth to Your Lordships the undue Election of the present Assembly; and besides the heavy Taxes they have laid on Us, and the severe Impositions on Trade (the Consequences of the vain Attempt on *St. Augustine*) we are more particularly to make our Complaints to Your Lordships, of the great and unparallel'd Breach they have made in the Charter, granted Your Lordships by *K. Charles II.* and of our Privileges therein contained. The Assembly having been prorogued to the 10th of *May*; it was however called together by Proclamation, to sit the 6th of *April*: And having continued together seven or eight Days, with little or no Business before them (to the great surprize of the generality of the People) on a sudden, without any previous Notice, on the 4th of *May* a Bill was brought into the House (the Copy whereof We have herewith sent your Lordships) to exclude by a Sacramental Test all Dissenters from sitting in the Commons House of Assembly. This Bill was hurried on so, that on the 6th it past the House; there being, after all their

Endeavours, but Twelve for it, and Eleven against it; whereof several were Members of the Church of *England*. In the Upper House, tho it past with less Opposition, yet the Landgrave *Joseph Morton* was deny'd the liberty of Entering his Reasons for his Dissent.

We are unable (my Lords) to describe the Consternation of the Generality of the People at these violent Proceedings: All moderate Persons are extremely dissatisfied, and the Dissenters themselves under the last degree of Confusion and Discontent; desiring, with Grief of Heart, that Your Lordships, in your Great Wisdom and Goodness, will take Their present Condition into Your serious Considerations, and order a Repeal of the aforesaid Act, so prejudicial to their Liberties; for which they humbly offer to Your Lordships these following Reasons.

1. *K. Charles* the Second, having by His Charter to Your Lordships, given His Subjects, the Freemen and Freeholders of this Province, by themselves' or their Delegates, the privilege of Advising and Consenting with Your Lordships; to all such Laws as shall be made here; and the Dissenters being a very large part of the Freemen, and Freeholders, and encouraged to transport themselves, Families, and

F Estates,



Estates, hither by the said Privileges, are notwithstanding excluded from the Privilege of being Delegates, or Representatives of the People in their Assemblies by the said Act, to the manifest Violation of the Charter.

2. The Dissenters, in all the rest of Her Majesty's Governments in *America*, being by no Laws excluded from being chosen into Assemblies in the respective Colonys; and the Dissenters here, having a Right thereunto in this Government, not only as Freemen, but by the Concessions in the Charter, have the greater Reason to complain of their present Sufferings.

3. We cannot too feelingly assure your Lordships, that the said Act tends not only to the great Prejudice, and utter Discouragement of her Majesty's good Subjects, the Dissenters here, in rendering from them that fundamental Privilege, which they and their Ancestors have peace-

ably enjoy'd ever since the first Settlement of this Colony; but will also be a very great Discouragement to them in their several Trades and Employments, and a fatal Discouragement of the further and better Settlement of this Part of your Lordships Province.

For a further Account of these Things, we refer your Lordships to Mr. *Joseph Boone*, by whose Hands we send this to your Lordships, desiring you to give Credit to what he shall further offer to your Lordships on our behalf. Wishing your Lordships good Health and Prosperity, we are

Your Lordships

*Charles Town,*

*May the 10th* Most Humble, and

1704.

Most Obedient Servants.

(Numb. 8.)

## *The Letter of Mrs. Blake, Widow of the late Governor, to the Lords Proprietors.*

*May it please your Lordships,*

**T**HE Share my Son has the Honour to have with your Lordships in the Propriety of this Province, together with the publick Concern I have for the Propriety thereof, oblige me at this time to give you this Trouble, and to lay before your Lordships a short Representation of the many Grievances the People are oppress'd with.

The precipitate and fatal Undertaking against *St. Augustine*, and the Consequences thereof, carried on by a Party, have involved the Country in a Debt of about 10000*l.* to the Ruin of our Trade, the Loss of our Credit abroad, and infinite Dissatisfactions at home.

Towards Satisfaction of which Debt, an Act was contriv'd for forcing the Currency of Bills of Credit to the value of 6000*l.* These Bills were declar'd Current in all Payments, and the Refuser of them finable in

double the value of the Sum refus'd; whereby the boldest Stroke has been given to the Property of the Settlers in this Province that ever was known in any Country, not govern'd by arbitrary Power: And the bad Consequences of this forced Currency, in relation to Trade with Strangers, are so great, that they can scarcely be expressed, without being more prolix than the Bounds of a Letter can allow. Your Lordships very well know, that if the Kingdom of *England* did not conceive such a Method destructive of the Peoples Property, and of the utmost Danger to Commerce, they could not need any Projection of Ways and Means, for raising of what Money the Government's Affairs do require; but there has nothing of this been weigh'd by your Lordships Deputies here, or by the pack'd Members of our Common House of Assembly: Besides all this, the People

People are not satisfied how many Bills are truly sent abroad ; and the great Concern Mr. *James Smith*, alias *Scruveir* (who cheated the *Scots* Company of a considerable Sum of Money, and with his Keeper made his Escape from *London* hither) had in this Contrivance, doth give a Jealousy of indirect Practices therein so prevalent among the People, as must end in Confusion and Disorder.

Neither have they stopt here, but to our present Amazement, and the Increase of our Fears of their evil Designs for the future, they have proceeded to pass an Act for the Exclusion of all Dissenters from their Right to sit in the Commons House of Assembly, and obliging them to take the Sacrament according to the Rites of the Church of *England* ; in the same Act inserting a Clause, to qualify the most profligate of themselves for Admission into Assemblies by a declaratory Oath, altho they never take the Sacrament : This Act (after much underhand Dealing) was passed in a hurry, and carried by Twelve only against Eleven, the above Mr. *Smith*, who has neither Interest nor Reputation, being one of the Number of the Twelve.

By the Artifices of these Men, the honest and well-meaning People have been all along set against your Lordships Constitutions ; they therefore seeing, that by passing of them, their indirect and arbitrary Proceedings would be in a great measure prevented : But now the Eyes of the

People are somewhat more opened, and they begin to be sensible of the Delusions and Oppressions they have been involved in, your Deputies decline offering the Constitutions to the People, altho your Lordships (as I am well informed) have often of late commanded it of them.

I know there has already been made to your Lordships, by Mr. *John Ash*, a Representation of the People's Sufferings here ; and that there will be at this time, and upon this Occasion, a farther Account of these Affairs sent your Lordships by many of the good People in the behalf of themselves and others, most sensibly affected with the Loss of these Privileges, which by King *Charles's* Charter to your Lordships, has been the Right and Usage of their Ancestors and themselves, ever since the first Settlement of the Province : And my earnest Request to your Lordships is, That in your great Wisdom, you would be pleased to give them such a Hearing and speedy Redress, as may conduce most to the Glory of God, your Lordships Honour, and the Welfare and Prosperity of your Colony ; and you will highly oblige

*Charles Town,*  
*May the 16th*  
1704.

Your Lordships

Most Humble Servant,

*Eliz. Blake.*

(Numb. 9.)

*The Petition of the Committee of the Pennsylvania Company,  
and divers other Merchants trading to Carolina.*

*To the Lord Granvill Palatine, and the rest of the true and absolute Lords and Proprietors of the said Province.*

*Humbly Shewing,*

THAT we understand there is a Law lately passed in the Assembly in *Carolina*, called, *An Act for the effectual Preservation of the Government of this Pro-*

*vince*, &c. which we are informed will be greatly prejudicial to the Good of the Country, in preventing many who would transport themselves thither, as also by

discouraging of Trade, and lessening the present number of Inhabitants there.

Because it deprives them of that Benefit which was granted to them in the Charter, and encouraged them to transport themselves and Families thither.

The which also they and their Ancestors have enjoyed ever since their first Settlement, notwithstanding they have been of different Persuasions in matters of Religion; yet all agreeing in the Fundamentals thereof, have lived peaceably under the Government, and have been ready chearfully to contribute to its Support, and desire truly its Preservation, whatever is pre-

tended or suggested to the contrary by the said Act.

Wherefore as the People are the Strength of a Country, and Trade the Life, and this Act (as we conceive) tends to diminish the one, and deprive them of the other:

We that are Merchants and Traders to the said Country, and have Correspondents there, humbly intreat you will be favourably pleased to disallow this Law, and order its Repeal.

Signed by the abovesaid Committee, and other Merchants nor of the said Committee, trading to *Carolina*.

(Numb. 10.)

## South-Carolina.

*An Act for the Establishment of Religious Worship in this Province according to the Church of England, and for the Erecting of Churches for the publick Worship of God, and also for the maintenance of Ministers, and the Building convenient Houses for them.*

*The Preamble.* **F**Orasmuch as in a well-grounded Christian Commonwealth, Matters concerning Religion and the Honour of God ought in the first place to be taken into consideration, and honest Endeavours to attain to such good Ends countenanc'd and encourag'd, as being not only most acceptable to God, but the best Way and Means to obtain his Mercy, and a Blessing upon a People and Country: *Be it therefore Enacted* by his Excellency *John Lord Granville* Palatine, and the rest of the true and absolute Lords and Proprietors of this Province, by and with the Advice and Consent of the rest of the Members of the General Assembly, now met at *Charles-Town*, for the *South-West* Part of the Province, and by the Authority of the same, That the Book of Common-Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of *England*; the Psalter or Psalms of *David*, and Morning and Evening-Prayer therein contained, be solemnly read by all and every Minister or Reader in every Church, which now is, or hereafter shall be settled, and by Law established, within this Province; and that all Congregations and Places for the publick Worship, according to the Usage of the Church of *England* within this Province, for the maintenance of whose Ministers, and of the Persons officiating therein, any certain Income or Revenue is, or shall by the Laws of this Province be established and enjoined to be raised or paid, shall be deemed, settled and established Churches. And whereas it is necessary, and for the better Accommodation and Conveniency of the Inhabitants of this Province, that the same be divided into Parishes, and the Bounds of the several Parishes ascer-

*Enacted.*

*That the Book of Common-Prayer be established in this Province.*

*And that all Places for publick Worship maintained by the Publick, shall be deemed and established Churches.*

*The Province to be divided into Parishes.*

Be



Be it therefore enacted by the Authority aforesaid, that *Charles-Town* and *The Bounds and the Neck* between *Cooper* and *Ashly* River, as far up the Neck as the Plantation *Limits* of the of *John Bird* Gentleman on *Cooper* River inclusive, and the Plantation of *Chris. Parish* of *St. topher Smith* Esq; on *Ashly* River inclusive, is, and shall, and from henceforth *Philip's* in for ever be a distinct Parish of it self, and be called by the Name of the *Charles-Town*. Parish of *St. Philip's* in *Charles-Town*.

And be it further enacted by the Authority aforesaid, that the Church, si- *The Church and* tuate in *Charles-Town* aforesaid, and the Ground thereunto adjoining, in- *Church-yard* cluded and used for a Coemetry or Church-yard, shall be the Parish-Church and *built and situ-* Church-yard of *St. Philips* in *Charles-Town*. And the same is hereby enac- *ate in Charles-* ted and declared to be for ever separated and dedicated to the Service of *Town, shall be* God, and to be applied therein to the Use and Behalf of the Inhabitants from *the Church and* time to time inhabiting, and to inhabit there, that are of the Religion and *Church-yard of* Profession of the Church of *England*, and conform to the same; and that *St. Philip's* there shall be a Rector or Minister to have care of the Souls of the Inhabi- *Charles-Town.* tants of the said Parish, and a perpetual Succession of Rectors there to be *Separated and* elected, nominated and appointed, according to an Act of Assembly, enti- *dedicated to* tled, *An Act to settle a Maintenance on a Minister of the Church of England in* the Service of *Charles-Town*, ratified in open Assembly the eighth day of *October*, in the *God.* year of our Lord 1698.

And be it further enacted by the Authority aforesaid, That the Rector of *To be incorpo-* the Parish of *St. Philips* in *Charles-Town* aforesaid, and his Successors, Rectors *rate and have* of the said Parish, shall be incorporate, and shall have Capacity and Succes- *Succession.* sion by the name of the Rector of the Parish-Church of *St. Philip's* in *Charles-Town*, and shall be hereby enabled to sue and be sued by that Name in all Courts and Places in this Province, and shall have the care of the Souls of the Inhabitants within the said Parish, and have and enjoy to him and his Successors for ever one Messuage or Tenement for his Habitation, excepting the Room reserved for the Provincial Library; together with all the Out-houses belonging to the same, together with all the Land and the Improvements thereupon, and the Negroes and their Increase, and the Cattle and their Increase; the which Tenement and Out-houses was built, and the Land, Negroes and Cattle purchased or given for the use of the Ministers of the said *St. Philip's* in *Charles-Town*, and his Successors, pursuant to the above-recited Act of Assembly, intituled, *An Act to settle a Maintenance on a Minister of the Church of England in Charles-Town*; and also such other Revenues as is given to the Minister of *Charles-Town* and his Successors by the said Act, together with all Fees and Perquisites arising within the said Parish that are of Right due to the Rector or Minister thereof by the Laws and Customs of this Province.

And be it further enacted by the Authority aforesaid, that *Berkly* County *Berkly County* shall be divided into six Parishes; that is to say, one in *Charles-Town*; one *to be divided* upon the South-East of *Wandoe* River; one upon that Neck of Land lying on *into 6 Parishes.* the North-West of *Wandoe*, and South-East of *Cooper* River; one on the Western Branch of *Cooper* River; one upon *Goose* Creek; and one upon *Ashly* River.

And whereas it is necessary that six Churches be built for the publick Wor- *Six Churches* ship of God, according to the Church of *England*; that is to say, one upon *to be built, five* the South-East of *Wandoe* River; one upon that Neck of Land lying on *in Berkly* the North-West of *Wandoe*, and South of *Cooper* River; one upon the Western *County.* Branch of *Cooper* River; one upon *Goose* Creek; one upon *Ashly* River; and one on the South-Side of *Stonoe* River in *Colleton* County; the said Churches to be built in such Place or Places, on the Precincts abovenamed, as shall be agreed on by the Majority of the Commissioners hereafter named, by and with

the Advice and Consent of the major part of the Inhabitants, who are of the Profession of the Church of England:

*The Commissioners impow'rd to take a Grant of Lands for the several Scites of the several Churches and Church-yards.*

*Be it therefore enacted* by the Authority aforesaid, that the Commissioners hereafter named, shall have power to take up by Grant from the Lords Proprietors, or purchase the same from them or any other Person, and have; take and receive so much Land as they shall think necessary for the several Scites of the several Churches and Coemeteries or Church-yards, for the Burial of Christian People there in the several Places above-mentioned; and shall also direct and appoint the Building of the several Churches, according to such Dimensions, and of such Materials as they shall think fitting; and also the Pulpit, Desk and Pews in the said several Churches, and also the inclosing the several Coemeteries or Church-yards.

*And whereas* it is necessary that there be six several Messuages or Tenements built, and six several parcels of Land allotted for a Glebe for each of the six Rectors or Ministers of the said Parishes or Divisions: *Be it therefore enacted* by the Authority aforesaid, that the Commissioners hereafter named, shall have power to take up by Grant from the Lords Proprietors, or purchase, have, take and receive the same from them or any other Person, so much Land as they shall think fit of the several Glebes, and in such Places as they shall think convenient; and upon each of the said Glebes shall order and appoint the Building of one Messuage or Tenement for a Dwelling-house for the Rector or Minister, together with convenient Out-houses, according to such Dimensions, and of such Materials, as they shall think fitting.

*In order to defray the Charges thereof,*

*And in order* to defray the Charges of the several Tracts of Land, and the Building the said several Churches, and inclosing the said several Coemeteries or Church-yards, and the several Tracts of Land for Glebes, and the Building the several Messuages, or Tenements, and convenient Out-houses on the same;

*The Commissioners impow'rd to receive all charitable Gifts.*

*Be it enacted*, that the Commissioners hereafter named, or the major part of them, shall be enabled to have, take and receive all such Sum and Sums of Mony, as any charitable and well disposed Christians shall freely and voluntarily give towards the Building of all or any of the said Churches, and inclosing all or any of the said Coemeteries or Church-yards, and shall also have power to nominate and appoint one or more Persons, Inhabitants of the Parishes in the several Places where the several Churches are to be built, to be Supervisors for the Building of the said several Churches, and the inclosing the several Coemeteries or Church-yards, and the several Buildings that are to be upon the several Glebes: and the said several Supervisors shall make an Estimate of the Charges of the Building the several Churches, and inclosing the several Church-yards, and the several Dwelling-houses and Out-houses that are to be built on the said several Glebes, and give the same in Writing under their several Hands to the Commissioners. And such Sum or Sums of Mony as shall appear to them the said Commissioners, to be in their Judgments competent to accomplish the Building of the said several Churches, and inclosing the said several Coemeteries or Church-yards, and the several Buildings that are to be upon the several Glebes, over and above what hath been freely contributed towards them, shall be paid out of the publick Treasury by an Order under the Hands of the Commissioners here after named, or the major part of them.

*The several Supervisors to have power to press Bricks and Lime, or any other Materials, and to compel Bricklayers,*

*And be it further enacted* by the Authority aforesaid, that the several Supervisors for the Building the several Churches, Houses, and other Works, required by this Act, shall have full power to press Bricks or Lime, or any other Materials; and shall have power to compel Bricklayers, Carpenters, Joiners, and all other Workmen and Labourers to work on the said Works, as they Materials, fully and amply to all Intents and Purposes, and under the same Penalties upon the Neglecters and Offenders, and the recovering the Penalties imposed, as



is given to Lieutenant-Colonel *William Rbett*, for the building the Front-Carpenters, Wall, and other the Intrenchments and Fortifications about *Charles-Town*, by Joiners, and one Act of Assembly, entitled, *An Additional Act to an Act, entitled, An Act to other Workmen prevent the Sea's further Encroachment upon the Wharf at Charles-Town, and and Labourers for the Repairing and Building more Battery's and Flankers on the said Wall to be to work, built on the said Wharf: And also for the Fortifying the remaining Parts of Charles-Town by Intrenchments, Flankers, and Pallisadoes, and appointing a Garrison to the Southward*: And that as fully and amply to all Intents, as if the several Clauses in the said Act, or any of them contained, were herein repeated at large, and particularly recited and set down in the Body of this Act, and re-enacted herein; the Penalties so recovered to be paid to the Commissioners hereafter named, or whom they or the major Part of them shall appoint, and to be disposed of towards the defraying the Charges of the several Buildings required by this Act.

*And be it further Enacted*, that the Supervisors of the several Churches, *The several Houses and Works*, required in this Act, shall have Power to press any Supervisors to Slave or Slaves from any Person inhabiting within their respective Parish and *have Power to Division*, to be employed upon the aforesaid Work and Building, allowing press Slaves. two Ryals a day for every such Slave to be employed as aforesaid.

*And be it further Enacted* by the Authority aforesaid, that the Commissio- *The Commissio- ners hereafter named, or the major Part of them, shall and hereby are ners by Order authorized and impowered, by an Order under their Hands, to draw out of under their the Publick Treasury such Sum or Sums of Mony, as shall by them, or the Hands to draw major Part of them, be estimated a convenient Salary to their Clerk, and ro out of the Pub- lick Treasury a lildings mentioned in this Act shall be finished; and to make him conve- nient Allowance for Pea, Ink, Paper, and other necessary Expences to sary for their be made in and about the Execution of this Act. Clerk.*

And for the Encouragement of faithful and able Ministers labouring in the Work of the Gospel, to come and reside in this Province, *Be it Enacted, by the Authority aforesaid; that the several Rectors or Ministers of the several Parishes shall be incorporate, and each of them shall have Capacity and Succession by the Name of the Rector of that Parish of which he is the Minister, and shall be hereby enabled to sue and be sued by that Name in all Courts or Places in this Province, and shall have the Care of the Souls of the Inhabitants within the Parish committed to his Charge, and shall have and enjoy to him and his Successors for ever the Glebe-Lands obtained and appointed pursuant to this Act, and the Messuage or Tenement for his Habitation, together with all the Out-houses and Buildings intended to be erected on part of the said Glebe-Land; and all such Negroes as shall be given and allotted to the several Parishes by the Society founded by Royal Charter in the Kingdom of England, by the Name of the Society for the Propagation of the Gospel in Foreign Parts, or by any other charitably disposed Persons: And also shall have and receive from the publick Receiver for the time being, by the Society in who is hereby required to pay the same, the Sum of fifty Pounds per annum, England for current Mony of this Province, to be paid him half-yearly. And if it shall the Propagation: happen that for any urgent and necessitous Reasons all the Mony in the Publick of the Gospel in: Treasury should be disposed of for other Uses, so as that there should not Foreign Parts, be left sufficient in the Receiver's Hands to pay the said several fifty Pounds ac or by any other the times before appointed, then the Commissioners hereafter named, or the charitably dis- major Part of them, shall order the Receiver to pay the same as soon and as posed Persons: often as any Publick Monies shall come into his Hands. But if the Commissio- And to receive- ners or the major Part of them shall have reason to believe that Monies will out of the Pub- not come into the Receiver's Hands in such time as they shall think the same lick Treasury*

*And all such Negroes as shall be given to the several Parishes by the Society in England for the Propagation: of the Gospel in: Foreign Parts, or by any other charitably disposed Persons: And to receive- out of the Pub- lick Treasury*



sol. per ann.  
If it happen  
that there be  
not sufficient  
Monies in the  
publick Treas-  
ury,  
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missioners to  
have power to  
assess and levy  
the same.

The several  
Rectors or Mi-  
nisters of the  
several Parishes  
to be chosen by  
the Inhabitants  
that are of the  
Church of Eng-  
land.

The Commissio-  
ners.

ought to be paid in; *Be it Enacted*, that in such case the Commissioners hereafter named, or the major part of them, shall have Power, and they are hereby impowered to assess and levy the said Sum of fifty Pounds for each and every the Rector or Minister in every Parish or Division in such manner and form, as the Commissioners appointed in an Act to settle a Maintenance on a Minister of the Church of England in *Charles-Town*, ratified in open Assembly the eighth Day of *October*, one Thousand six Hundred ninety eight, are impowered to do, in case they have reason to believe that Monies will not come into the Receiver's Hands in such time as the same ought to be paid in.

And *be it further Enacted* by the Authority aforesaid, that the several Rectors or Ministers of the several Parishes shall be chosen by the major Part of the Inhabitants of the said Parish, that are of the Religion of the Church of England, and conform to the same, and are either Freeholders within the same Parish, or that contribute to the publick Taxes and Charges thereof, or such of them as shall think fit to attend and repair to the respective Parish Churches upon a Meeting appointed by the Commissioners hereafter named, or the major Part thereof, of which publick Notice shall be given at least ten Days before the time of such Meeting appointed as aforesaid.

And whereas it may often happen that a Rector or Minister may be chosen pursuant to this Act, and also to one other Act of Assembly, entitled, *An Act to settle a Maintenance on a Minister of the Church of England in Charles-Town*, of whose Qualifications or Dispositions the Inhabitants may have but small Acquaintance, or may be otherwise mistaken in the Person who may act contrary to what was expected of him at his Election; so that it is highly necessary to have a Power lodged in some Persons for the removing all or any of the several Rectors or Ministers of the several Parishes, or to translate them from one Parish to another as to them shall seem convenient; otherwise in case any *Immoral* or *Inprudent* Clergy-man should happen to be appointed Rector or Minister of any Parish, the People would be without any Remedy against him; or in case there should arise such incurable Prejudices, Diffensions, Animositys, and implacable Offences between such Rector or Minister and his People, that all Reverence for, and Benefit by his Ministry is utterly to be despair'd of, (*altho he is not guilty of more gross and scandalous Crimes*) yet it may be very convenient to have him removed from being Rector or Minister of that Parish to which he did belong, and where such Diffensions and Offences are arisen, otherwise great Evils and Inconveniences may ensue upon the same: For the prevention of which Evils and Inconveniences, *Be it Enacted* by the Authority aforesaid, that the Commissioners hereafter named, or the major Part of them, shall have Power, when they think it convenient, upon the Request and at the Desire of any nine of the Parishioners that do conform to and are of the Religion of the Church of England, and are Persons of Credit and Reputation, together with the Request of the major Part of the Vestry of the Parish, signified under their Hands, and requesting the Removal of the Rector or Minister of such Parish, to cite such Minister before them, and to hear the Complaints against such Rector or Minister, allowing him reasonable time to make his Defence; and upon a hearing of the same, if the said Commissioners or the major Part of them shall think it convenient to remove such Rector or Minister, they are hereby authorized and impowered to do the same, whether it be the Rector or Minister of *Charles-Town* or any other Parish, that is already elected and appointed, or that shall be elected and appointed Rector or Minister of any Parish or Parishes within the Province. And in case the said Commissioners or the major Part of them shall by writing under their several Hands and Seals,

delivered

delivered to such Rector or Minister, or left at his usual Place of Abode, or House appointed or to be appointed for such Rector or Minister for his Habitation, or by fixing the same on the Church-Doors, signify that such Rector or Minister shall cease to be Rector or Minister of that Parish, and that he be removed from the same: Then and in such case such Person shall cease to be Rector or Minister of the said Parish, and shall cease to have any Use, Possession, or Benefit, or Advantage of the Church, or of any Lands, Messuages, or Tenements, or any Negroes, or any Revenues, Sees, Profits, Perquisites, Privileges, Benefits, or Advantages whatsoever, belonging to the Rector or Minister of that Parish, as fully and amply to all Intents and Purposes, as if he had never been chosen Rector or Minister thereof: and upon such Removal of any Rector or Minister of any Parish, the Parishioners may proceed to a new Choice, according as it is directed by this Act, in case of the Death of a Minister.

And be it further Enacted by the Authority aforesaid, that the Right Honorable Sir Nathaniel Johnson, Kt. the Honourable Thomas Broughton Esq; Col. James Moore, Nicholas Trott Esq; Col. Robert Gibbes, Job Howes Esq; Ralph Izard Esq; Col. James Risbee, Col. George Logan, Lieutenant-Colonel William Rhett, William Smith Esq; Mr. John Stroude, Mr. Thomas Hubbard, Richard Beresford Esq; Mr. Robert Seabrooll, Mr. Hugh Hicks, John Ashby Esq; Capt. John Godfrey, James Securier alias Smith Esq; and Mr. Thomas Barton, or the major Part of them who shall meet upon publick Summons, as is directed by this Act, provided the Persons that meet are not less than Eleven, be and are hereby nominated and appointed to be the Commissioners mentioned in this Act, and to exercise all the Authoritys and Powers given them as Commissioners by this Act, in the several parts thereof: And in case of the Death or Absence of the said Commissioners, the remaining Commissioners, or so many of them as will meet, provided they exceed the Number of Ten, being summoned at least six Days before they meet at some convenient Place appointed for that purpose, such Commissioners as shall so meet upon such Summons, or the major Part of them, shall and may chuse a Person or Persons of the Profession of the Church of England, to be Commissioner or Commissioners in the room or place of such Person or Persons dead or gone off as to them shall seem meet; which Persons so chosen shall, and are hereby declared to be Commissioners for this Act, as fully and amply as if they had by Name been mentioned in this Act.

And be it further Enacted by the Authority aforesaid, that the Commissioners for this Act shall meet to transact the Business of this Act twice in the Year, that is to say on the second Tuesday in January, and on the second Tuesday in July, at the Church in Charles-Town, without any Notice or year; Warning to be given thereof, and oftner, if occasion shall require it, upon publick Notice thereof, or Summons sign'd by the Governor six Days before such Meeting, appointing a convenient Time and Place; or in case the Governour shall refuse to issue out such Summons upon the Application of any three Commissioners to him for the same, that then it may be lawful for the said three Commissioners, or any other three of the Commissioners of this Act, to issue out their Summons, appointing the Time and Place of the meeting of the Commissioners: and so many of them as shall meet by virtue of such Summons, provided there are not less than Eleven, and the Majority of them Eleven consenting, may put in force and execution any of the Powers granted to the Commissioners by this Act.



*No Minister or other to marry contrary to the Table of Marriages.* And to prevent all illegal and unlawful Marriages not allow'd by the Church of England, but forbidden by the Table of Marriage; *Be it enacted* by the Authority aforesaid, that no Minister shall presume to join together in Marriage any Persons whatsoever, contrary to the Table of Marriages by this Act appointed to be set up in every Parish-Church within this Province, under the Penalty of one hundred Pounds; nor shall any Person forbidden to intermarry by such Table of Marriage, presume to be join'd in Marriage, under the Penalty of fifty Pounds, or twelve Months Imprisonment.

*No Laymen to marry.* *And be it further enacted* by the Authority aforesaid, that no Justice or Magistrate being a Laymen shall presume to join any Persons in Marriage, under the Penalty of the above mention'd Penalties, to be recover'd and dispos'd of as hereafter is in this Act directed.

*Vestrys how to be chosen.*

And the better to promote the Execution of the good Laws of this Province, so far as concerns the respective Parishes, and for the more easy Dispatch of Parish-Business; *Be it further enacted* by the Authority aforesaid, that there be Vestrys in each Parish of this Province: and in every Parish where any Rector, or Minister, or Incumbent is, or shall be lawfully, according to the Laws and Usages of this Province, appointed, and in Possession of any Living and Residing therein, he shall during Continuance aforesaid, and no longer, be one of the Vestry of each Parish.

*And nine more to be chosen out of the Inhabitants of the Parish.*

*And be it further enacted* by the Authority aforesaid, that there shall be nine more Vestrymen in each Parish, who shall be Inhabitants in each respective Parish, for which they are chosen, and shall conform to and be of the Religion of the Church of England, and shall be chosen by the Inhabitants of each Parish, as hereafter in this Act is directed.

*On Easter Monday in the Year 1706. the Inhabitants of each Parish shall chuse nine Vestrymen to continue for one Year.*

*And be it further enacted* by the Authority aforesaid, that on Easter Monday which shall be in the Year of our Lord one thousand seven hundred and six, the Inhabitants of each Parish that are of the Religion of the Church of England, and that do conform to the same, and that are either Freeholders within the same Parish, or that contribute to the Publick Taxes and Charges thereof, or so many of them as shall think fit to attend, shall meet at their Parish-Church, or for want of a Parish-Church, at such Place as the Commissioners above-mentioned in this Act, or the Major part of them, that shall meet upon Publick Summons, shall appoint and shall there elect nine sober and discreet Persons, Inhabitants of the Parish, that are of the Religion of the Church, and do conform to the same, and that are either Freeholders within the same Parish, or that do contribute to the Publick Taxes and Charges thereof, to be Vestrymen for the said Parish; which said nine so chosen shall continue to be Vestrymen for the Parish for the space of one Year: and so on the said Easter Monday yearly, the Inhabitants of each Parish qualified as aforesaid, shall chuse nine Persons qualified also as aforesaid, to be Vestrymen for that Parish for which they are elected; and in case of the Death, or Resignation, or other legal Discharge of any of the nine of the Vestrymen, of any of the Parishes chosen aforesaid, the remaining Part of such Vestrys shall with all convenient speed, summon and appoint a general Meeting of all the Inhabitants of the said Parish, who are of the Religion of the Church of England, and conform to the same, and that are either Freeholders within the same Parish, and that do contribute to the Publick Taxes and Charges thereof, who shall by Majority of Voices chuse one or more sober and discreet Person, or Persons, that are also Inhabitants of the said Parish, and of the Religion of the Church of England, and conform to the same, and that are either Freeholders within the said Parish, and that do contribute to the Publick Taxes and Charges thereof, to supply such Vacancies.

*And*



And be it further enacted, by the Authority aforesaid, that all such Persons that shall be so elected and chosen, shall take the usual Oaths appointed by Act of Parliament, instead of the Oaths of Allegiance and Supremacy, and likewise subscribe the Test, and shall also take the following Oath, viz. *The Vestry-men shall take the Oaths appointed by the Stat.*

I A. B. Do solemnly swear and declare, that I will justly and truly execute the Trust or Office of a Vestry-Man of this Parish, according to my best Skill, Knowledge and Power, without Prejudice, Favour, or Affection. Which said Oaths at the Election of any Vestry-Man, as aforesaid, are to be administered by any Justice of the Peace, of the County where such Vestry is, who are hereby requir'd and impower'd to administer the same; and every Person being so elected and chosen a Vestry-Man, as before by this Act directed, having taken the Oaths and subscribed the Test as requir'd by this Act, and not before, shall be deem'd and taken as one of the Vestry, to all Intents and Purposes.

And for the keeping a fair Register of such Vestrys Proceedings, and for Registering of all Births, Christnings, Marriages and Burials in each respective Parish; Be it enacted by the Authority aforesaid, that each Vestry shall, and is hereby obliged to provide a fit Person for a Register, who shall at all times keep a true and fair Registry of the several Proceedings of such Vestry from time to time, in executing their Trust and Authority, and make just and true Entries thereof: which Persons so to be appointed for keeping such Registry shall take the Oaths appointed by Act of Parliament, instead of the Oaths of Allegiance and Supremacy, and subscribe the Test, and also an Oath for the due and faithful Execution of this Office; which said Oath shall be taken before the said Vestry, who are hereby impower'd and requir'd to administer the same accordingly: and having so done, and not before, the said Register shall then be admitted in the said Office, and shall make true Entry of all Vestry-Proceedings, and of all Births, Christnings, Marriages and Burials (Negroes, Mollatoes and Indian Slaves excepted) that is to say, the Christian and Surname, with the Day, Month and Year of every such Births, Christnings, Marriages and Burials; to which purpose all and every the Inhabitants of each Parish, that are either Parents, Guardians, Overseers, Masters, Mistresses, or Executors, or Administrators of any Persons, born, christen'd, marry'd, or bury'd within this Province, except such before excepted, are hereby enjoin'd and requir'd to give notice to the Register of such Parish, within two Months after such Birth, Christning, Marriage and Burial, and pay him one Ryal for entering at the time of giving Notice aforesaid, under the Penalty of five Shillings to be forfeited by such Inhabitant aforesaid, refusing or neglecting as aforesaid, and under the Penalty of five Shillings to be forfeited by such Register, refusing or neglecting to enter it, having receiv'd his Fee for the same: and such Register is hereby oblig'd to shew any Person or Persons, reasonably desiring it, any such Register, or give a Certificate of any Register of any Births, Christnings, Marriages, or Burials, that shall be reasonably requir'd of him, and shall have for his Fees from such Person one Ryal for any Search, and two Ryals for any Copy, or Certificate given as aforesaid, and no more; hereby ratifying and confirming as valid all Registries of any Births, Christnings, Marriages, or Burials, heretofore made in this Province by any Person lawfully authoriz'd, commissioned, or impower'd to do the same, by any Law or Custom in this Province, before the making of this Act. *The Vestry-men to provide a fit Person for their Register.*

And that the Register of each Parish may be enabled to perform the Charge hereby required of him; *Be it Enacted*, by the Authority aforesaid, That the

*Register Books to be provided at the Parish-Charge.* Church-wardens of each Parish, within twelve Months after the Ratification of this Act, shall at the Parish-Charge provide good and substantial Writing-Books, well bound, sufficient for Registering such Proceedings in, according to the Directions of this Act, under the Penalty of five Pounds for each Church-warden's neglecting the same.

*Tables of Marriages to be set up.* And be it further Enacted, by the Authority aforesaid, That the respective Vestries of each Parish, with all convenient Speed, and within twelve Months at the most, shall provide a fair Table of Marriages, transcribed and set up in their respective Churches, and the same keep continually in the said Church, that Persons being thereby informed what Marriages are forbidden, may avoid the contracting of any such unlawful Marriages.

*Two Church-wardens to be chosen yearly by the Parishioners.* And be it further Enacted, by the Authority aforesaid, That on *Easter* Monday, in the Year One thousand seven hundred and six, the Inhabitants of each Parish, that are qualified by this Act to chuse Vestry-men, shall meet at their Parish-Church, or for want of a Parish-Church, at such Place as the Commissioners above-named in this Act, or the major part of them that shall meet upon publick Summons shall appoint, and shall there make choice of, and appoint, two sober and discreet Persons, Inhabitants of the Parish, that are of the Religion of the Church of *England*, and do conform to the same, and that are either Free-holders within the same Parish, or that do contribute to the Publick Taxes and Charges thereof, to be Church-wardens for that Year; which Church-wardens so chosen, shall take the usual Oaths appointed by Act of Parliament, instead of the Oaths of Allegiance and Supremacy; and likewise subscribe the Test; and likewise declare on his Oath to be administered unto him by the Vestry, to whom Power is hereby given to administer the same accordingly, well and faithfully to execute the Office for the ensuing Year, according to the Laws and Usages of the said Province, to the best of his skill and power, and until he shall be thereof duly discharged.

And any such Person or Persons so chosen Church-warden or Wardens, and that shall wilfully refuse to serve in the said Office, and take the Oaths aforesaid, shall forfeit the Sum of Ten Pounds, to be recovered as hereafter by this Act is directed.

*The Clerk and Sexton chosen by the Vestry.* And be it further Enacted, by the Authority aforesaid, That the Clerk of each Parish-Church, and the Sexton, shall be chosen by the major part of the Vestry of each Parish; which said Clerk and Sexton shall continue in their said Offices during their Lives, if they shall so long inhabit in the Parish, excepting the Vestry for the time being shall think fitting to remove either of them, which they are hereby impowred to do; and upon such removal the said Vestry, or the major part of them, may appoint another in the room of the Person so removed.

Be it further Enacted, by the Authority aforesaid, That the Church-wardens of each Parish for the time being, shall, and are hereby required, from time to time, to pay yearly, at the Charge of the Parish, any Sum, not exceeding Ten Pounds, current Monies of this Province, to the Clerk of each Parish, to be appointed as aforesaid, and any Sum not exceeding five Pounds, like current Monies, to the Sexton of each Parish.

And that there may be no neglect in the several Vestries, or those employed under them, in the lawful and conscionable performance of their several Charges; and also for the preventing of Delays, and other Inconveniences which might happen, if there were a necessity for the expecting the attendance and presence of all the said Vestry-men, and at the same time to prevent



vent the doing any thing of Consequence by surprize, by a small number of them;

*Be it hereby Enacted*, by the Authority aforesaid, That the first Tuesday in *January, in April, in July, and in October*, shall be, and is hereby fixt and ascertain'd for the holding of a Vestry at Eleven of the Clock in the Forenoon, in the usual place for that purpose, without any notice, or warning, to be given thereof; at which time and place the major part of the Vestry-men then present (so as such Majority be not under the Number of Five Persons) shall be esteem'd as a Vestry, and shall have full Power to direct and act, in all things by this Act, appointed to be done according to this Act, as a Vestry: and the said several Vestries are not only oblig'd to meet once in every the said Months, as before by this Act is directed, but also as often as need shall require, upon publick Notice given, either by the Rector or Minister of each Parish, or by any Three of the Vestry-men of the Parish, to consult of the Methods and Ways of performing the several Authorities repos'd in them; and from which Vestry so appointed, no Vestry-man being personally summon'd, shall, without a reasonable and lawful Excuse, absent himself under the Penalty of such Fine or Mult, as the residue of the said Vestry meeting shall lay upon him, so as the same never exceed Ten Shillings. And that in case any Vestry-man shall remove, or withdraw himself from the Parish, or voluntarily frequently neglect to give his Attendance, and absent himself from the Vestry, or otherwise become unfit or incapable to continue to execute such Office or Trust, that in any such case the Residue of the said Vestry, or the Majority of them (so as such Majority be not under Five Persons) shall and may have Power (after Personal Notice given to such Party, if it conveniently may be, or the affixing of a Publick Notice upon the great Door of the Church, for three several Sundays successively, if personal Notice cannot be given without great Difficulty, Charge or Delay of their Intentions to proceed in such manner) to remove such Person from being a Vestry-man, and to declare his Office void, and to summon a Meeting of the Parishioners qualified, as is above-directed, for the electing of another in the place of such Person; who shall, after allowing a reasonable time to such Person to make his Complaint, if he apprehends himself injur'd, not exceeding a Fortnight, proceed to a new Election accordingly.

*And be it further Enacted*, by the Authority aforesaid, that the Churchwardens and Vestry of each Parish, be authorized and required to take constant care to satisfy and pay the Parochial Charges, and all necessary Repairs and Amendments of their respective Churches, Chappels, or Church-yards, and cause the same at all times to be repaired and amended, as need shall require, out of such Gifts, Goods, or Chattels, as shall come to their hands for the Church or Parishes use; and also out of such Fines, Forfeitures, and Mults by this Law incurred, and afterwards by the same given to the Churchwardens, to be applied to the said Uses: and in case they shall not have sufficient Effects to pay Parochial Charges, as aforesaid, or to make such necessary Repairs as are required, then, and not otherwise, it shall be lawful for the respective Vestry of each Parish, to order Three sober and discrete Persons, to assess such Sum as shall be necessary to repay the Parish-Charges aforesaid (provided the same exceed not one hundred Pounds) by an equal Assessment of the Estate, Real and Personal, of all and every the Inhabitants, Owners and Occupiers of Lands, Tenements, and Hereditaments, or any Personal Estate within the several Parishes; which Assessment being returned to the said Vestry upon Oath, who are hereby impowred to administer an

*Parochial  
Charges.*

Oath.



Oath accordingly; and being by them approved in open Vestry, it shall then be lawful for any Justice of the Peace of the County, by a Warrant under his Hand and Seal, directed to any of the Constables of the several Parishes, to Levy the Sum assessed upon each Person by Distress and Sale of such Persons Goods as shall refuse the same, returning the Overplus after reasonable Charges deducted; and for want of such sufficient Distress, to commit the Person to Prison till payment be made.

*Every Parish-  
oner may see  
the Vestry-  
Books and Ac-  
counts.*

And that there may not be any Oppression or Misapplication of the publick Revenue of such Vestries, or just Cause to complain against them in any of their Proceedings without Redress, Be it enacted by the Authority aforesaid, that all and every Parishioner or Parishioners whatsoever, who contribute to the publick Taxes and Charges of the said Parish, shall and may require the Register herein before-mentioned, at any reasonable and convenient Time or Times, to give them an Inspection of the Vestry-Books and Accounts of all and every their Orders and Proceedings, and shall and may take Copies thereof (paying a reasonable Fee for the same according to the Length thereof, and the trouble of Attendance) and that all and every Person and Persons whatever, who shall find or apprehend him, her, or themselves grieved or injured, or that the Body of the said Parish is injured or oppressed by any Acts, Orders, Rules, Accounts, or other Proceedings of any such Vestry, the Parties so injured, or any others in their Behalf, or in the Right of the whole Body, may from time to time appeal for Redress against all and every such Orders, Accounts, and other Proceedings, to the Commissioners above-named; which Commissioners, or the major part of them that shall meet as aforesaid upon publick Summons, are hereby required and impowered to examine, hear and determine all and every such Appeals and Complaints for Redress, and to give Redress, as they in their Judgments shall think agreeable to Justice and Equity, and such their Order, Judgment and Decree shall be final and bind all Parties.

*The Fines and  
Forfeitures in  
this Act how  
to be recovered  
and disposed.*

And be it further enacted by the Authority aforesaid, that all the Fines and Forfeitures mentioned in this Act, and not particularly disposed of, and the manner of the Recovery directed, if the same do not exceed the Sum of Forty Shillings, it shall be recovered, prosecuted, adjudged, levied and distrained by any one Justice of the Peace in this Province, as in the Act for the Trial of small and mean Causes is directed; and the same being so recovered, shall be paid to the Church-Wardens of that Parish where the Person inhabits against whom the Forfeiture is recovered, to be disposed of towards the defraying the publick Charges of the said Parish: and all the Fines and Forfeitures, mentioned in this Act, exceeding the Sum of Forty Shillings, and not particularly disposed of, and the manner of the Recovery of the same, not directed by this Act, all such Fines and Forfeitures shall be paid into the Hands of the Church-Wardens of the Parish where the Person inhabits, against whom the Forfeiture is recovered, to be disposed towards the publick Charges of the said Parish, and the other half to him or them that will sue for the same by Action of Debt, Suit, Bill, Plaint, or Information, in any Court of Record in this Province, wherein no Essoign, Protection, Privilege, Injunction, or Wages of Law, or Stay of Prosecution, by non vult ulterius prosegui, or otherwise, shall be admitted or allowed.

*Persons injured  
may plead the  
general Issue,  
and recover  
Treble Costs,*

And be it further enacted by the Authority aforesaid, that if any Action, Plaint, Suit or Information shall be commenced or prosecuted against any Person or Persons, for what he or they shall do in pursuance or execution of this

this Act, such Person or Persons so sued, may plead the general Issue of Not Guilty, and upon any Issue joined, give this Act and the special Matter in Evidence; and if the Plaintiffs or Prosecutors shall become Nonsuit, or suffer Discontinuance, or if a Verdict pass against him, the Defendants shall recover their Treble Costs, for which they shall have the like remedy, as in any Case where Costs by Law are given to the Defendants.

Whereas the Honourable Sir Nathaniel Johnson Knight, hath upon all Occasions shown his great Zeal and Affection to the Church of England, as it is established by Law, as a Mark of our Gratitude and Respects to him, *Be given by this it further enabled* by the Authority aforesaid, that notwithstanding the Powers in this Act given to the Commissioners, or the major part of them, to turn out any Minister as aforesaid expressed, that in case the said Commissioners, or the major part of them, that shall meet upon publick Summons, as above directed, shall, in pursuance of such Power, turn out or remove such Minister; that in case the said Sir Nathaniel Johnson, shall at any time, within six Days after notice of such Order of the said Commissioners, or the major part thereof, signify his Dissent by a Writing or Instrument under his Hand and Seal, that then such Order of the said Commissioners for that time to be of no Force or Effect, and that this Power and Trust reposed in the said Sir Nathaniel Johnson, shall continue during his being Governor of this Province, and no longer.

Read three times and  
ratified in open  
Assembly, Nov. 4.  
1704.

N. Johnson,  
Tho. Broughton,  
Jam. Moore,  
Nicholas Trott,  
Robert Gibbs,  
Henry Noble.

(Numb. 11.)

**T**HIS is to certify whom it may concern, That Novemb. the 6th and 7th 1704. we, whose Names are hereunto subscribed, did peruse, and carefully examine a Sermon upon the fifth Commandment, preached at Charles-Town-Church in Carolina, by the Reverend Edward Marston, A. M. Minister of the Church of England in Charles-Town, October the 15th 1704. before the Honourable Nicholas Trott Esq; Chief Justice; Colonel Logan, Major Paris, James Securier alias Smith, Captain Gappel, Assembly Men, and many others, as well of the Communion of the Church

of England, as also some learned and judicious Dissenters: we Mr. Scieuen and Mr. Stebo, Ministers of the Gospel, do attest under our Hands, that there is none of this Assertion in the aforesaid Sermon, with which the Lower House of Assembly have charged him to use in the said Sermon, viz. That he was no ways obliged to the Government for the plentiful Revenue they had allowed him, and that he did not think himself obliged to give an Account of his Actions to the Government.

The

The Assembly have also charged him to say, " That a Maintenance was due to him and other Ministers of Congregations by Divine Right: We do attest under our Hands, that 'tis Orthodox Doctrine, and that he hath well proved it from Holy Scripture.

The Assembly have farther charg'd him to assert in the aforesaid Sermon; " That 'tho the Government gave him a Maintenance, yet he was their Superior, his Authority being from Christ; or Words to that effect: We do attest that these are the Words in the Sermon, we suppose to be aim'd at, in the Assembly's Charge against Mr. *Edward Marston*, viz. *We (Ministers of the Gospel) do not arrogate too much to our selves, nor take too much upon us, when we affirm, That we are superior to the People, and have an Authority over them in Things Spiritual, and ap-*

*pertaining unto God.* We do attest that these fore-recited Words are in the *Exposition of the fifth Commandment*, written by the Right Reverend Father in God, *Ezekiel Hopkins*, late Lord Bishop of *Londonderry* (whose Works were licens'd by *Dr. Lancaster*, in the Year 1692. at that time the Bishop of *London's* Chaplain, now or lately Minister of *St. Martins, London*) They are in the 313th Page of his Works.

We do farther attest, that he doth not in the aforesaid Sermon compare the Assembly to *Corah* and his rebellious Companions, as the Assembly have charg'd him to do.

*William Screuen* Minister of a Congregation in *Charles-Town*.

*Archibald Stobo* Minister of a Congregation in *Charles-Town*.

*Charles-Town, November the 9th, 1704.*

**I** *Edward Marston*, Minister of the Church of *England* belonging to *Charles-Town*, do make Oath, that my Sermon upon the fifth Commandment, which was perus'd and carefully examin'd by *Mr. William Screuen* and *Mr. Archibald Stobo* on *November* the sixth and seventh, 1704. was the very same Sermon *verbatim* I preach'd at *Charles-Town-Church*, *O<sup>r</sup>ob.* the 15th, 1704. upon which the Lower House of Assembly have grounded the most material Part of their Charge against me, and which I'm most concern'd to clear my self from asserting those things

in it, which they have accus'd me to do.

Sworn before me,

*Henry Noble.*

*Memorandum.* That the aforesaid Oath was administer'd to the Reverend *Mr. Edward Marston*, A. M. Minister of the Church of *England* in *Charles-Town*, in the Presence of us whose Names are hereunto subscrib'd.

*Richard Cock, P. Pearce.*



Charles Town *Library in South*  
*Carolina, May 3. 1705.*

*Reverend Sir,*

I Am glad to see you in the List amongst other Learned and Worthy Divines, and other Persons of the Society for the Propagation of the Gospel in Foreign Parts; considering the Acquaintance I had with you at the Free-School in *Leicester*, and afterwards at *Cambridge* whilst we were Contemporaries together there. I'm the more embolden'd and encouraged humbly to request of you, that you'll afford me your best Assistance in that Honourable and Reverend Society, in the unjust and illegal Oppression. I do at the present undergo, in this remote Corner of the World. The true state of my Case being summarily comprized in my enclosed Petition to the Board of our Lords Proprietors, I sent the same Petition in *November* last to his Excellency *John Lord Granville our Palatine*, and the rest of the Lords Proprietors of this Province. My Objections against a late Act passed here, were not in that; so I desire the Favour of you to peruse this, to the end you may make the best Advantage of it for me you can, at your Honourable and Reverend Society. I have writ to one *Mr. George Franklin*, an Apothecary in *Long-Lane*, over-against the *Charter-House* Street, to wait upon you for it, that he may present it to our Lords Proprietors, for fear this War time my former may have miscarried: He was an *Eaton* Scholar, whose Father was a Doctor of Physick at *Windsor*, and of *Coll. Camb.* He lived here 17 Years, and was my Churchwarden two Years: He will satisfy your Curiosity in any Questions about me, or this Country. I wrote in *November* last to my Lord of *London*, *Mr. Harper* at *St. James's Palace*, and to some other Friends of mine in *London*; about this Business, but have as yet received no Answer to my Letters. I intreat you to be a Friend to me and

and my Church in your Honourable Society. I'm known to the Two Archbishops, *Sir George Wheeler*, *Dr. Beveridge*, *Dr. Bray*, and to some others of the Worthy Members of the Society, who I hope will be an *Asylum* to me in my opprefs'd Innocence. His Grace of *Canterbury* was pleas'd at my leaving *England* ( which was above 5 Years since ) to promise me upon my Application to him, to assist me and my Church here, to the best of his Power: I beg the Favour of you to give my humble Duty to his Grace, and to be a Remembrancer of me to him, as you have an Opportunity, I was personally recommended to his Favour, by *Dr. Comber*, the late Dean of *Durham* ( of Sacred Memory ) who knew me very well at *Newcastle* and *Durham*. I took the Oath at *Monmouth* in *Yorkshire* to *King William*; and after that, his Grace of *York* was pleas'd to vouchsafe me many Favours, whilst I supply'd that Church, and lived in his *Diocese*; which was about Two Years. I craved his Blessing and Prayers in *London*, at my Leaving *England*; he was pleas'd to be very kind to me, and I suppose hath not yet forgot me. The Enclosed will satisfy all the Friends I can make in your Worthy Society, that I do stand in need of their Patronage and best Assistance.

I being Married since my Arrival here, and having Three small Children, I cannot as yet see *England*; tho' the present Circumstances of this once Flourishing Colony, doth make me with my self there.

Our last Assembly ( being compos'd of many Men of very loose and corrupt Morals ) did make some very odd and unjustifiable Laws, which have occasioned great Pains and Animosities here: And I a little favouring the Dissenters, who generally are the Sa-

best, most Numerous, and Richest People of this Province; some Men that are now in Power, have for that Reason been pleas'd to be my Enemies. Tho' I bless God, I have some very good Friends here, and I do still Preach in my Church Twice every Lord's-Day, &c. tho' our present Powers have dealt as bad with me, as *Pharash* dealt with the *Israelites*, that took away their Straw, yet required their full Tale of Bricks: So the present Powers here have unjustly robb'd me of my Legal Rights; and yet not only require the full Tale of Sermons and Service from me, but do multiply my Sermons and Service, by appointing many Fast-Days at this time that we are threatned with an Invasion from the publick Enemies of the Crown of *England*. The Ship that brings you these Papers, doth carry to *England* a young Clergyman, call'd Mr. *Thomas*; he was sent hither by my Lord Bishop of *London*, and the Society for Propagating the Gospel in Foreign Parts, to labour in the Conversion of a Nation of our *Indians*, call'd the *Xanoses*, who revolted from the *Spaniards* to us. He was recommended to me by his Reverence Dr. *Bray*, for that Work: The *Indians* being *Roman-Catholick* Christians, desired a Priest amongst them, and he came upon the Letters of Captain *Nairne* and Mr. *Stephens* to the Bishop of *London*, for a Minister for them. Upon his Arrival here he did not obey His Mission and Orders at home, but displac'd one Mr. *Kendall*, tho invited into this Colony by several Letters from his Church at *Bermudas*, call'd St. *George's*, where he had been several Years settl'd: Poor Mr. *Kendall* went distracted upon his ill usage here by some Great Ones on this Young Man's account, and he and his Wife forc'd out of the Province, and I hear that he's since dead. A young Deacon, one Mr. *Kornel*, (whose Father was a Confrater of St. *Catherine's*) I found here, they us'd him so ill, that he also dy'd distracted. Mr. *Corbin*, an Acquaintance and Neighbour of mine in *Northamptonshire*, when I was Curate to Dr. *Crawford*, and Mr. *Canos* of *Rushton*, came here by

chance, and I got him settl'd in a Congregation at *Goosecreek*, where in half a Year they causelessly quarrel'd with him, (tho he desired none of their Money) and forced him out of the Colony; who is since dead at *Boston* in *New-England*. Thus hath this Colony made Three Episcopally-ordained Ministers; within less than Five Years, the Emblems of all Misery, and by false Calumnies and Slanders, and malicious and false Accusations, made them most base in the eyes of all good Christians. Their Charge against me, and Censure and Ordinance thereupon, to stop my Legal Salary, are now I hope in *London*, and Mr. *Franklin* will bring them to you, or others of the Society; with a Sermon of mine on the Fifth Commandment, from which the most material part of the Charge is taken, when you please.

Now this Young Man is gone off, here's no Church-of-*England* Minister, but my self and Mr. *Williams*, who is a Master of Arts of *Oxford* and *Dublin*; he hath been here 20 Years, and formerly I am afraid not very Regular and Sober; tho I hope he much reformed: He hath been arraigned at Bar here, and a Prisoner near a Year, for a Passage only in a Funeral Sermon, that reflected upon a Deputy. So that whatsoever Stories this young Man Mr. *Thomas* may tell your Society, about a late Act of Assembly here, to invite over Ministers here, unless the Queen be pleas'd to send us over a Governor that will protest us according to Law, there's no trusting to any Acts of this Place. The Lords have had a Quaker for their Governor; and their Deputies here, who call themselves our Ordinaries, are many of them no Friends either to Clergymen, or Learning; as I found the last *Whisfonside*, when a Bully lash'd me causelessly with his Whip, and tore my Gown from my Back; and upon my Complaint to the Lords Deputies of the Indignities put upon me, our Chief Justice, and most of them (except the Governor) took his Part: The Governor hath but a Vote in the Council of Deputies, and so they do as they please. This Bullying



ing Soldiers Creatures in the Assembly, have been the occasion of my present Sufferings and Troubles.

God forbid that I should represent the state of things here so to you and to your Society, as to discourage your Zeals in the Propagation of the Gospel here, and more particularly of that Excellent Church, of which I am an unworthy Member: But having by my Five Years Residence found some people in Power here so whimsical and humourfome, and those too whom I have done the best of my Endeavours to oblige, by the Drudgery of Boarding and Teaching their Children the *Latin* Tongue, that out of my Respect to my Brethren of the Clergy of University Education ( which this young Man Mr. *Thomas* never had ), I would have them very cautious of venturing hither, till they have some Assurance of being better protected in their Legal Rights, than I and several others have experimentally found.

I do very much approve of the greatest part of the Act which establishes Religious Worship in this Province. Those parts of which I object against for just Reasons, are contained in the inclosed Petition to his Excellency the *Palatine*, and the rest of the Lords Proprietors, which as you have opportunity, I intreat you to shew the Bishop of *London*, his Reverence Dr. *Bray*, and to others of your Worthy Society. I have sent Dr. *Bray* some Letters, which are not answer'd, and so do not know where he is.

The Reverend Dr. *Beveridge* perused my Testimonials from *Stamford, Whitby*,

and *Newcastle*, where I lived much whilst a Non-Juror: He was much my Friend in the Consistory at *St. Paul's*, at my leaving *England*; and I would have troubled him with a few Lines, if I had not heard that he is deservedly promoted to the Bishoprick of *Bath and Wells*. If the Bishop of *London* and the Society do send us any more Ministers, I desire they may be Regular and Sober Men, and such as will a little courageously assert the Dignity of their Function, the Rights and Privileges of Churchmen, and their Canons and Laws: If they be Men of Mean and Sneaking Spirits, they will be abused and despised here. I think the best Service your Honourable Society can do this young Man Mr. *Thomas*, is to maintain him a few Years at one of our Universities, where he may better learn the Principles and Government of the Church of *England* established by Law, and some other useful Learning, which I am afraid he wants.

I beg the Favour of you to assist me and my Church here all you can in your Honourable Society, and in *London*, by endeavouring by a Paper under your Hand, and some other Members of your Society, to the Board of the Lords Proprietors, to prevent, if possible, the Act about Establishment of Religious Worship, being Ratified by them, with that Clause in it, where Twenty Commissioners for Church-Government are constituted. I hope you'll pardon this Freedom and Trouble from a *quondam* Schoolfellow and Acquaintance in Exile. I do remain,

Reverend Sir,

Your most Humble Servant,

Edward Marston.

I should take it kindly, if your Society, and my Lord of *London*, would send us some Indigent *quondam* Non-Juror. I have a great Acquaintance in *England* with many of those Men, as Mr. *Robert Jenkins*, Dr. *Wagstaff*, Mr. *Billers*, and several others; but I hope most of them are now provided for at home in the Church again.



To His Excellency, *John Lord Granville*, Palatine, and the rest of the True and Absolute Lords Proprietors of *Carolina*:

*The Humble Petition of the Reverend Mr. Edward Marston, Minister of the Church of England in Charles-Town, in South-Carolina,*

Humbly sheweth,

THAT whereas Your Honours Humble Petitioner was legally put into possession of the Church of *Charles-Town in South-Carolina*, and thereby lawfully intitled to a Salary for exercising the Offices of the Ministerial Function in the aforesaid Church, according to the Rites and Ceremonies of the Church of *England*, being lawfully authorized so to do by the Right Honourable and Right Reverend Father in God, *Henry Lord Bishop of London*, who was pleased to recommend him to his Excellency the Earl of *Bath*, at that time Palatine, and to the other Lords Proprietors, for their Letter to their Deputies here; as also to recommend him by two several Letters, to the Right Honourable Colonel *Blake*, at that time Governor here; upon which Recommendations he was duly elected Minister of *Charles-Town Church*, according to an Act of Assembly, ratified and confirmed by his Excellency the Palatine, and the rest of the Lords Proprietors; and hath since his being settled in the aforesaid Church, been diligent in his Studies, and in teaching of Scholars the *Latin Tongue* for some Years, as also in the due performance of his Ministerial Function; and hath also lived a Sober and Regular Life, according to the Canons of the Church of *England*: Nevertheless the Late Lower House of Assembly were pleased to begin a Causeless Quarrel with him in *April* last, about part of a Speech penn'd by Your Petitioner, at the Request of the Right Honourable Governor, wherein the e-

resting of a Vestry in the Church of *Charles-Town*, for the better managing of the Church Affairs, and of Moneys given towards the erecting of a Free-School; and other Charitable Uses, as also some Things towards the better observation of the Lord's Day, and the Suppressing of Vice and Wickedness here, were recommended to their Consideration.

The Lower House in a Paper under the Hand of *Job How*, Esq; their Speaker, were pleased fallly to abuse Your Petitioner, by fixing several Scurrilous Epithets upon him; which he hopes he hath not deserved in this Country; as he can make appear by the Hands of most Sober Churchmen, and Members of Dissenters of several Denominations, if Your Honours require it. His Ruin was at that time threatned by some Members of Loose and Corrupt Morals, but was not accomplish'd. At the Sessions of Assembly, *October* last, the Lower House sent for him to lay two of his Sermons before them, formerly preach'd by him in his Church, before the Right Honourable Governor; he did at first scruple it, as not knowing them to have any Ecclesiastical Jurisdiction over him: He went directly from their House to the Right Honourable Governor, and laid them before him, as Ordinary of the Province, who was pleased at that time to be Choleric with him, because the Night before he had made *Landgrave Smith* a Visit, at the House of the Messenger.

The Lower House of Assembly gave Mr. *Marston* very much Trouble in attending their House about this Affair, and drew up a Charge against him, stuffed full of Falsties; to which he reply'd by several Papers; in all which he deny'd most of the Things he was charged with, and offer'd to prove them false, in case they would allow him a Hearing; which they nor the Upper House never allow'd him, but concurred in a Censure, with an Ordinance thereupon, to deprive him of his Salary, without ever acquainting him with it till after it was signed, contrary, to all Equity and Justice: They sloop 50. l. that was due to him by an Act of Assembly, Aug. 19. and my Pay from that time to *October* the 22d, the Day of the Date of their Ordinance. By their *Arbitrary Proceedings*, Your Petitioner, his Wife, and three Small Children, and three more in Family, are deprived of their Legal Subsistence in this Extravagantly Dear Place, of all Necessaries for the Support of Life.

Your Petitioner doth humbly supplicate Your Honours, That you will be graciously pleas'd to hear his Cause pleaded at Your Honourable Board by his Lawyers, before You concur with our Assembly in the Overtthrow of him and his Family in this Remote Country.

Your Petitioner was forced into Exile for not taking the Oaths to the late King *William* and Queen *Mary*, and was deprived of a Good Living in *England* upon that Account; he having been a great Sufferer for the Crown, is the more emboldened to beg of Your Honours what he's deny'd here, *viz.* the Benefit of the Charter granted by King *Charles* the II. d. to his Excellency the *Palatine*, and the rest of the True and Absolute

Lords Proprietors of this Province, under the Broad Seal of *England*.

That Patent doth give no power to the Lower House of Assembly to make Ordinances, but only to the Lords Proprietors by themselves, or their Deputies, and only at such times as the Assembly of the Freemen cannot be so suddenly called as there may be occasion to require the same; and such Ordinances are commanded by the aforesaid Patent to be reasonable, and not repugnant nor contrary, but as near as may be agreeable to the Laws and Statutes of the Kingdom of *England*; and so as the same Ordinances do not extend to the binding, charging, or taking away of the Right or Interest of any Person or Persons in their Freeholds, Goods, or Chattels whatsoever. Your Petitioner doth beg of your Honours, that you'll be pleased to give his Cause a Hearing before you. His Sermon on the Fifth Commandment, from which the Lower House of Assembly here, have taken upon Trust and Hearsay only, the most material part of their Charge against him, with the other Papers well-attested for true Copies, that have passed between the Lower House of Assembly and him, since they were pleased first to begin a Quarrel with him; are now in *London*, and will be laid before your Board, whenever you please to appoint a time. Your Petitioner doth beg Pardon of you for the Trouble of this long Petition; but Necessity that hath no Law, hath compelled him to it.

*He doth, as in Duty bound, daily Pray for your Honours Healths and Prosperities; and doth remain,*

Right Honourable Sirs,

Your Most Humble, and  
Most Obedient Servant.

Edward Marston.

My



My Lords,

I T cannot be improper certainly, for one of your Clergy here in *Carolina*, to make an Address of this Nature to your Lordships. If the Office be any ones, 'tis yours to vindicate the oppres'd Innocence of those that are under your Discipline and Government.

A *Vertigo* and Spirit of Giddiness hath possess'd some of those in Power here of late, which makes their Heads turn round upon their Shoulders, and their Hearts Unquiet and Discontented within them. They have not wanted here in Town nor Countrey, neither these Five Years since my Arrival, for good Sermons Twice every Lord's Day, and many other Occasional ones, besides some Hundreds of very useful and practical Books I have distributed amongst the People here; notwithstanding many People of this Province will not be persuaded by any means to Live and Love like Christians. I'm sorry to inform your Honours, That most of the late Members of Assembly, have been constant Absenters from the Holy Sacrament of the Lord's Supper; though for these Five Years last past, I have publickly Administr'd it in my Church at the least Six times in the Year; so 'tis no wonder they have incerted an absurd Oath in a late Act, to be taken by Members of the Commons House of Assembly, instead of Conforming to the Church of England by receiving the Sacrament of the Lord's Supper according to the Rites of the said Church.

Whatever may be pretended by some here, I cannot think that it will be much for the Credit and Service of the Church of England here, that a door should be so directly opened, and such Provisions made for the admitting the most loose and profligate Persons to Sit and Vote in the making of our Laws, who will but take the Oath appointed by the late Act.

I suppose that by this time your Deputies in this Province have offer'd to your Honourable Board, an Act of As-

sembly passed here, Entitled, *An Act for the Establishment of the Religious Worship in this Province, according to the Church of England, &c.*

I do humbly offer the following Arguments and Objections against that part of it, which constitutes a Court of Twenty Commissioners for Ecclesiastical Causes, before it be ratified by your Lordships.

'Tis well known that by the common Law of England, all manner of Ecclesiastical Jurisdiction was in the Crown, and declared to be so by the Act of 1. Eliz. I. and by that Act Power given to the Crown, to assign Commissioners to exercise this Jurisdiction; which was accordingly done by Queen Elizabeth, King James the First, and King Charles the First, until the 17th Year of His Reign; When an Act was made, which with a *Non Obstante*, to the 1. Eliz. I. Repealed, Annulled, Revoked, Annihilated, and utterly made void for ever that Clause of the 1. Eliz. I. whereby the Crown had Power by Letters Patents to erect an High Commission Court in Ecclesiastical Matters, &c.

By which aforementioned Act, the Power of exercising Ecclesiastical Jurisdiction by Commissioners is taken away, that it provides no such Power shall ever for the future be delegated by the Crown to any Person or Persons whatsoever.

2dly. I object against that Paragraph of the Act, because it seems to contradict, or however is not reconcilable to the Preamble of that Act, which settles a Maintenance on the Minister of the Church of England in *Charles-Town*. The Preamble of that Act of Assembly, is, Whereas his late Majesty, King Charles the II. of Blessed and Happy Memory, hath by his Letters Patents, and Royal Grants of the Province of *Carolina*, to the



the Lords Proprietors, provided and taken care, That no Religious Minister, except that by Law established in the Kingdom of *England*, should have any publick Maintenance.

'Tis well known, that Episcopacy is established by Law in the Kingdom of *England*, and all Episcopally ordained Ministers by their Oath of Canonical Obedience are bound to approve of Church Government by Bishops.

The Oath of Canonical Obedience is this :

*I E. M. do swear, That I do approve the Doctrine and Discipline, or Government Establish'd in the Church of England, as concerning all Things necessary to Salvation, &c.*

*Nor will I ever give my consent to alter this Government of this Church, by Arch-bishops, Bishops, Deans, and Arch-Deacons, &c. as it stands now Established, and as by Law it ought to stand. And all these things I do plainly and sincerely Acknowledge and swear, according to the common Sense and Understanding of the same Words without Equivocation, or mental Evasion, or secret Reservation whatsoever. And this I do heartily, willingly, and truly, upon the Faith of a Christian. So help me God in Jesus Christ.*

3dly. I do object against part of the Act, which erects High Commissioners for Ecclesiastical Causes, as being contrary to the Charter under the Broad Seal of *England* to this Province.

That Charter says, That all By-Laws of this Province shall be consonant to Reason, and as near as may be conveniently agreeable to the Laws and Customs of the Realm of *England*.

'Tis well known, that King *James* the II's. High Commission Court in Ecclesiastical Affairs was condemned as illegal, by the Learned Divines and Lawyers of *England*; and if the King or Queen who are Supream in Ecclesiastical Affairs,

cannot legally erect such Commissioners, sure the subordinate Powers under them have no legal Power to constitute such Commissioners. The Charter farther says, that the By-Laws of this Province must be consonant to Reason. In the Act of Assembly that erects Commissioners in Ecclesiastical Affairs, 'tis Enacted, That whatever Minister shall Marry any within the degree of Consanguinity forbidden in the Table of Marriage, he shall forfeit an *100 l.* though it be with a License from the Governor, or Publication of the Banns Three several Holidays. How Consonant that part of the Law is to Reason, I leave to all judicious People to judge.

The only design of Marriage Licenses that I know of being to satisfy the Minister, that the Coast is clear from all Precontracts, Consanguinity, or other lawful Letts and Impediments of Marriage.

4thly. I object against Fourteen of the Twenty Commissioners appointed by the Act, for displacing Ministers because they were Members of the late Assembly: Wherein Mr. *Edward Marston* was unfairly and unjustly used: Therefore he protests against the Power over him they may challenge by Virtue of that Act. Besides, they are many of them constant Absenters from the Church; and Eleven of them were never known to receive the Sacrament of the Lord's Supper; and so perhaps their Religion may be to seek. For the aforesaid and several other weighty Reasons, your Petitioner, Mr. *Edward Marston*, legal Minister of St. *Phillip's* Church in *Charles-Town*, doth beg of your Honours not to ratify that part of the Act offer'd to your Board, by your Deputies here, in which, Twenty Commissioners are empower'd to displace Ministers, &c. And in case they give Him Molestation by Virtue of that Act passed here, before your Honours have confirmed it, He doth protest against their lawful Power over Him as Commissioners; and appeals

appeals to your Honourable Board from them, and to the Queen's Courts of Justice in *England*; and as a Priest of the Church of *England*, He will Appeal to his Bishop and his Courts. Which He presumes he may do by a particular Law of the Kingdom of *England*.

Your Petitioner shall ever Pray for your Healths and Prosperities, and remains,

My Lords,

Your most Obedient and Humble Servant,

Edward Marston.

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( Numb.

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*The CASE of the Reverend Mr. Edward Marston, Minister of the Church belonging to the Church of England in Charles-Town, in South Carolina, truly stated.*

**A**T the Meeting of the General Assembly of the Province in April, in 1704. he was order'd by the Right Honourable Governour Sir Natb. Johnston, to write down in a Paper what he thought would be proper, for the better Suppressing of Vice and Wickedness, in this Town and Country, especially on the Lord's Day; and what other Things he thought convenient for the better Management of the Affairs of the Church, and publick Monies given towards the Erecting of a Free-School, and other pious Uses. Mr. Marston obey'd the Order; and when the Governour had read the Paper, he reply'd, That it was modest and reasonable, and that he would propose the Contents thereof to the Assembly, which accordingly he did: Some few Days after, he sent for Mr. Marston, to shew him the Reply of the Lower House of Assembly to that part of the Speech, penn'd by Mr. Marston, under the Hand of Job How, Esq; Speaker, in which Mr. Marston was scurrilously abused, and very false Epithets fix'd upon him by them.

That part of the Governour's Speech is in Packet to Br. Wigly.

About the same time, the Right Honourable Governour acquainted Mr. Marston, That some of the Members of the Assembly were endeavouring to wrest the Ecclesiastical Jurisdiction of the Province out of the Hands of the Right Honourable and Right Reverend Father in God, Henry,

Lord Bishop of London, and out of the Hands of the Right Honourable Governour, Sir Nathaniel Johnston, as Ordinary; which was the Occasion of the Paper, called, *A Reply to these Members, &c.* sent in the afore said Packet also.

The Governour was pleas'd to quash their Design at that Time; so the Paper was never sent to any of them; but being threaten'd in the House of Colonel Risbee, one of the Members of the Assembly, about August last, That at the next Sessions of Assembly I should see the Bishop of London's Jurisdiction abolish'd here, I put the afore said Reply into the Hands of Col. Risbee.

Sometime after the Meeting of the Assembly in Octob. last, Landgrave Smith was made a Prisoner, by a Vote of the Lower House of Assembly. On the first Day of his Confinement Mr. Marston made him a Visit, to acquaint him with the Death of the Reverend Mr. William Corbin, for sometime Minister of the Congregation at Goos Creek in this Colony: The next Morning, after my Visit, Col. Risbee moved in the Lower House, as soon as it was set, That I should be order'd to lay before the House 2 Sermons preach'd by me, one in April last, the other about 1 three Weeks before. I obey'd their Order, and attend'd the House, with the Two Members that came for me. My Paper in Packet to Br. Wigly, dated October the 11th, will acquaint you with my Answer to them,



as the other Papers will with all the Proceedings of the Assembly against me after that.

I went from the Lower House of Assembly directly to the Right Honourable the Governour, and laid the Sermons before him, as Ordinary, he also having been an Auditor of both of them. He was pleas'd at that Time to be choleric and angry, because I had visit'd Landgrave *Smith*, and refus'd to take Notice of my Sermons, or of the Trouble the Lower House of Assembly had given me about them. I apply'd my self to him and the Council by several submissive Letters, in all which I humbly crav'd of them; That I might be allow'd an Hearing to vindicate my self from those false Accusations which were charged against me by the Lower House of Assembly. They would not allow me an Hearing, but concurr'd with the Lower House in the Censure and Ordinance thereupon, to deprive me of my Salary, the necessary Subsistence of my self, a Wife, Three Children, and Three more in Family, in this extravagantly dear Place of all Necessaries for the Support of Life.

I was not made acquainted with the Conference of both the Houses about this Affair; but they chose that very Day to agree upon my Ruine, in which they knew I was bulied to prepare a Funeral Sermon for Capt. *Weekly*.

I'm at the present a Confessor, for asserting the Ecclesiastical Jurisdiction of the Bishop of *London* in this Province, and the Prerogative of being Ordinary here, of our Right Honourable, the Governour, against some illiterate, and unreasonable Men of the Lower House of Assembly of this Province, who at their Sessions in *April* last, were endeavouring to wrest the Ecclesiastical Jurisdiction out of the aforesaid Hands; and at their last Session in *October*, did accomplish their Design, by getting an Act pass'd for constituting Ruling Lay-Elders, or *Carolina* Bishops, to turn out Clergymen from their Churches as they please. But, I hope, it will be proved, That their new Act of Assembly is repugnant, and contrary to the Laws of *Eng-*

*land*, and therefore by the Patent under the Broad-Seal of *England*, of no Validity here.

Some Paragraphs out of the Patent under the Broad-Seal of *England* to the Lords Proprietors of *Carolina*, in the last of the Patents from King *Charles* the Second.

No Law to be imposed without the Assent of the Freemen, or of the greatest part of them, or of their Delegates or Deputies, they are to be published.

No other Power granted to the Delegates, or Deputies of the Freemen, by the Patent under the Broad-Seal, but of giving their Assent to enact Laws.

And because Assemblies of the Delegates and Deputies of the Freemen cannot be so suddenly called, as there may be Occasion to require the same; Power is given to the Lords Proprietors, by themselves, or their Deputies or Magistrates, in that Behalf lawfully authoriz'd, full Power and Authority from Time to Time to make and ordain fit and wholesome Orders and Ordinances within the Province or Territory aforesaid, and to publish the same to all to whom it may concern.

Which Laws and Ordinances we do by these Presents strictly charge and command to be inviolably observ'd within the said Province, &c. under the Penalties therein express'd; — so as such Laws and Ordinances be reasonable, and not repugnant nor contrary, but as near as may be agreeable to the Laws and Statutes of the Kingdom of *England*. And so as the same Ordinances do not extend to the binding, charging, or taking away of the Right or Interest of any Person or Persons in their Freehold, Goods, or Chattels whatsoever.

Faith, Allegiance and Sovereign Dominion, are, by the Patent, due to King *Charles* the Second, his Heirs and Successors for ever.

By the Patent, the Province of *Carolina* is held of the Crown of *England*, as the Mannor of *East Greenwich*, in the County of *Kent*, in free and common Soccage, &c.

Yielding and paying Yearly to the Crown of *England* for the same the Fourth part of all Gold and Silver Ore, &c. over and besides the Yearly Rent of Twenty Marks.

*Quere*, Whether the Delegates and Deputies of the Freemen, whose Lords

do hold their Lands of the Crown of *England*, in the aforesaid Tenure, can legally assume or claim to themselves the Power, Privileges and Immunities of the House of Commons of the High Court of Parliament in *England*.

Our Lower House of Assembly in *Carolina* do imprison, by a Vote of the House, *sine Die*, and bid Defiance to the *Habeas Corpus* Act, though made in Force here by an Act of Assembly.

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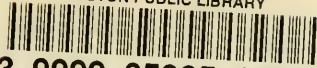
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